Proceedings of the Council

OF THE

LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

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Index to Vol. XXV.

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INDEX TO THE PROCEEDINGS

OF THE

COUNCIL OF THE LIEUT.-GOVERNOR OF BENGAL

FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS

FOR THE YEAR 1893.

A.

PAGE.

ACT IV (B.C.) OF 1883. REPEAL OF—
See *Licensed Warehouse and Fire-Brigade Bill.*
„ III (B.C.) OF 1884. AMENDMENT OF—
See *Bengal Municipal Act*, 1884, *Amendment Bill.*

ADJOURNMENTS OF COUNCIL. See *Council.*

ADVOCATE-GENERAL OF BENGAL. See *Paul, Hon'ble Sir Charles;* and *Officiating Advocate-General.*

ALLEN, HON'BLE T. T.—
Licensed Warehouse and Fire-Brigade Bill . 68, 72, 80, 84, 96, 107, 110, 117, 159 and 166

ANTI-KINE-KILLING AGITATION. See *Questions.*

B.

BANERJEE, HON'BLE SURENDRANATH—

Asked questions regarding the Anti-Kine-Killing Agitation			216
Ditto	ditto	Bengal Provincial Service	200
Ditto	ditto	Hindu Religious Establishments	213
Ditto	ditto	Increments to Officers of the Educational Service	213-214
Ditto	ditto	Inspectors of Tea-gardens	204
Ditto	ditto	Native Assistant Superintendents of Police	201
Ditto	ditto	Number of Certain Classes of Public Servants	212-213
Ditto	ditto	Recommendations of the Public Service Commission	212
Ditto	ditto	Relief Measures in Eastern Bengal	215
Ditto	ditto	Separation of Judicial and Executive Functions	*ib.*

PAGE.

BANERJEE, HON'BLE SURENDRANATH, appointed to Select Committee on—
Bengal Municipal Act, 1884, Amendment Bill 209

BENGAL GOVERNMENT'S SUMMER HEAD-QUARTERS. See *Questions.*

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.
Referred back to Select Committee 6
Additions to Select Committee on— . . . . . 6, 209 and 217

BENGAL PROVINCIAL SERVICE. See *Questions.*

BOURDILLON, HON'BLE J. A.—
Replied to questions regarding the Bengal Government's Summer Head-Quarters 202
Ditto ditto ditto Lieutenant-Governor's Tours . . *ibid.*
Ditto ditto ditto Lieutenant-Governor's Tour Charges . 211
Ditto ditto ditto Municipal Sanitation prior to Act XXVI of 1850 204

BOURDILLON, HON'BLE J. A., appointed to Select Committee on—
Bengal Municipal Act, 1884, Amendment Bill 217

BRITISH SUBJECTS MADE OVER ON WARRANTS TO THE FRENCH POLICE AUTHORITIES. See *Questions.*

BUSINESS BEFORE COUNCIL. Statement of Course of—
The President 1

C.

CHUNDER, HON'BLE GONESH CHUNDER—
In the absence of the Hon'ble Dr. Mahendra Lal Sircar, asked questions regarding the Natural Drainage of Villages 163-164
Licensed Warehouse and Fire-Brigade Bill . . 51, 59, 72, 73, 76, 80, 81, 85, 86, 92, 99, 100, 112, 118, 128, 129, 138 and 145

COLLIER, HON'BLE F. R S., appointed to Select Committee on—
Bengal Municipal Act, 1884, Amendment Bill 209

PAGE.

COTTON, HON'BLE H. J. S.—

Bengal Municipal Act, 1884, Amendment Bill 217
Licensed Warehouse and Fire-Brigade Bill . 7, 15, 44, 57, 63, 73, 78, 89, 95, 99, 100, 103, 116, 121, 126, 133, 143, 149, 150, 160, 165 and 167

Replied to questions regarding the Anti-Kine-Killing Agitation 216-217
Ditto ditto Bengal Provincial Service 200-201
Ditto ditto British Subjects made over on Warrants to the French Police Authorities 203
Ditto ditto Hindu Religious Establishments . . . 213
Ditto ditto Increments to Officers of the Educational Service 214-215
Ditto ditto Malaria in Shahabad 147
Ditto ditto Mymensingh Case 203
Ditto ditto Native Assistant-Superintendents of Police . 201
Ditto ditto Number of certain classes of Public Servants . 212-213
Ditto ditto Recommendations of the Public Service Commission 212
Ditto ditto Relief Measures in Eastern Bengal . . 215-216
Ditto ditto Separation of Judicial and Executive Functions 215

COUNCIL OF THE LIEUTENANT-GOVERNOR OF BENGAL FOR MAKING LAWS AND REGULATIONS.

Adjournments of— . . . . . 14, 56, 97, 145 and 162
" " *sine die* . . . . . 6, 196, 209 and 217
Divisions of— . . . . . 56, 76, 85, 108, 128, 141 and 157
Meetings of— . . . . . 1, 7, 15, 57, 99, 147, 163, 197 and 211
Postponements of— . . . . . 14 and 162

See *Debates*.

D.

DEBATES IN COUNCIL ON—

Financial Statement for 1893-94 167-195
Licensed Warehouse and Fire-Brigade Bill . 15—56, 57—97, 99-145, 149-162, 165-167

DIVISIONS OF COUNCIL. See *Council*.

F.

FAZL IMAM. See *Imam*.

FINANCIAL STATEMENT FOR 1893-94.

Laid before Council on the 1st April, 1893 167

PAGE.

FIRE-BRIGADE. See *Licensed Warehouse and Fire-Brigade Bill.*

G.

GHOSE, HON'BLE L.—

In the absence of the Hon'ble Mr. Bonnerjee, asked questions regarding the Bengal Government's Summer Head-Quarters 201
In the absence of the Hon'ble Mr. Bonnerjee, asked questions regarding British Subjects made over on Warrants to the French Police Authorities . 203
In the absence of the Hon'ble Mr. Bonnerjee, asked questions regarding the Lieutenant-Governor's Tours 202
In the absence of the Hon'ble Mr. Bonnerjee, asked questions regarding the Municipal Sanitation prior to Act XXVI of 1850 204
In the absence of the Hon'ble Mr. Bonnerjee, asked questions regarding the Mymensingh Case 202-203

GHOSE, HON'BLE L., appointed to Select Committee on—

Bengal Municipal Act, 1884, Amendment Bill 209

GONESH CHUNDER. See *Chunder.*

H.

HINDU RELIGIOUS ESTABLISHMENTS. See *Questions.*

I.

IMAM, HON'BLE MAULVI SYED FAZL—

Asked questions regarding Malaria in Shahabad 147
Licensed Warehouse and Fire-Brigade Bill 101

IMAM, HON'BLE MAULVI SYED FAZL, appointed to Select Committee on—

Bengal Municipal Act, 1884, Amendment Bill 6

INCREMENTS TO OFFICERS OF THE EDUCATIONAL SERVICE. See *Questions.*

INSPECTION OF TEA GARDENS. See *Questions.*

INTERPELLATIONS. See *Questions.*

L.

LALMOHUN GHOSE. See *Ghose.*

LAMBERT, HON'BLE J.—

Licensed Warehouse and Fire-Brigade Bill . 46, 58, 71, 80, 93, 101, 102, 125, 140 and 152

PAGE.

LEE, HON'BLE H.—
Licensed Warehouse and Fire-Brigade Bill . . 31, 65, 80, 83, 86, 101, 102, 105, 109, 113, 120, 124, 125, 129 and 138

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.
Report of Select Committee presented 7
" " considered . . . . . 15 and 56
Amendments proposed and adopted . 57-59, 92-97, 99-109, 128-130, 160-162, 165-167
" " " negatived 15-56, 59-76, 81-85, 86-92, 110-128, 130-144, 149-157
" " " withdrawn . . 76, 109-110, 128, 130, 144, 145, 157-160
Consideration of amendments postponed 76-81
Settlement of clauses 57, 99, 149, 165
Bill passed 167

LIEUTENANT-GOVERNOR OF BENGAL (HON'BLE SIR CHARLES ALFRED ELLIOTT)—*President.*
Financial Statement for 1893-94 193
Licensed Warehouse and Fire-Brigade Bill . . 73, 81, 96, 99, 101, 102, 105, 109, 118, 120, 125, 127, 129, 156, 160, 161, 162 and 166
Statement of the Course of Business 1

See *Officiating Lieutenant-Governor.*

LIEUTENANT-GOVERNOR'S TOURS. See *Questions.*

LYALL, HON'BLE D. R., appointed to Select Committee on—
Bengal Municipal Act, 1884, Amendment Bill 209

M.

MAHENDRA LAL SIRCAR. See *Sircar.*

MALARIA IN SHAHABAD. See *Questions*

MEETINGS OF COUNCIL. See *Council.*

MEMBERS. See *New Members.*

MUNICIPALITIES. See *Bengal Municipal Act, 1884, Amendment Bill.*

PAGE.

MUNICIPAL SANITATION PRIOR TO ACT XXVI OF 1850. See *Questions.*

MYMENSINGH CASE. See *Questions.*

N.

NATIVE ASSISTANT SUPERINTENDENTS OF POLICE. See *Questions.*

NATURAL DRAINAGE OF VILLAGES. See *Questions.*

NEW MEMBERS—

Hon'ble Maulvi Syed Fazl Imam Khan Bahadur (took his seat in Council on the 7th January, 1893) 1
Hon'ble Maharaja Ravaneshwar Prosad Singh Bahadur of Gidhour (took his seat in Council on the 25th February, 1893) 57
Hon'ble D. R. Lyall, C.S.I. (took his seat in Council on the 22nd July, 1893) . . 197
Hon'ble J. A. Bourdillon (took his seat in Council on the 22nd July, 1893) . . *ib.*
Hon'ble Maulvi Abdul Jubbar Khan Bahadur (took his seat in Council on the 22nd July, 1893) . . . . . *ib.*
Hon'ble F. R. S. Collier (took his seat in Council on the 22nd July, 1893) . . *ib.*
Hon'ble Surendranath Banerjee (took his seat in Council on the 22nd July, 1893) . *ib.*
Hon'ble L. Ghose (took his seat in Council on the 22nd July, 1893) . . . . *ib.*
Hon'ble Maulvi Serajul Islam Khan Bahadur (took his seat in Council on the 22nd July, 1893) . . . . . *ib.*
Hon'ble P. Playfair (took his seat in Council on the 22nd July, 1893) . . . *ib.*
Hon'ble J. G. Womack (took his seat in Council on the 22nd July, 1893) . . *ib.*

NUMBER OF CERTAIN CLASSES OF PUBLIC SERVANTS. See *Questions.*

O.

OFFICIATING ADVOCATE-GENERAL. See *Woodroffe, Hon'ble J. T.*—

OFFICIATING LIEUTENANT-GOVERNOR OF BENGAL—(HON'BLE SIR ANTONY PATRICK MACDONNELL)

Address by, ... 197

P.

PAUL, HON'BLE SIR CHARLES—(*Advocate-General of Bengal*).

Licensed Warehouse and Fire-Brigade Bill 166

PAGE.

PLAYFAIR, HON'BLE P.—

Financial Statement for 1893-94 187
Licensed Warehouse and Fire-Brigade Bill . 38, 59, 61, 80, 84, 96, 110, 126, 139 and 154

PRESIDENT. See *Lieutenant-Governor of Bengal.*

Q.

QUESTIONS ASKED IN COUNCIL.

Anti-Kine-Killing Agitation (on the 11th November, 1893) 216
Bengal Government's Summer Head-Quarters (on the 22nd July, 1893) . . 201
Bengal Provincial Service (on the 22nd July, 1893) 200
British Subjects made over on Warrants to the French Police Authorities (on the 22nd July, 1893) 203
Hindu Religious Establishments (on the 11th November, 1893) 213
Increments to Officers of the Educational Service (on the 11th November, 1893) *ib.*
Inspection of Tea-Gardens (on the 22nd July, 1893) 204
Lieutenant-Governor's Tours (on the 22nd July, 1893) 202
Malaria in Shahabad (on the 11th March, 1893) 147
Municipal Sanitation prior to Act XXVI of 1850 (on the 22nd July, 1893) . 204
Mymensingh Case (on the 22nd July, 1893) 202-203
Native Assistant Superintendents of Police (on the 22nd July, 1893) . . . 201
Natural Drainage of Villages (on the 1st April, 1893) 163-164
Number of Certain Classes of Public Servants (on the 11th November, 1893) . 212
Recommendations of the Public Service Commission (on the 11th November, 1893) 212
Relief Measures in Eastern Bengal (on the 11th November, 1893) . . . 215
Separation of Judicial and Executive Functions (on the 11th November, 1893) . *ib.*

R.

RECOMMENDATIONS OF THE PUBLIC SERVICE COMMISSION. See *Questions.*

RELIEF MEASURES IN EASTERN BENGAL. See *Questions.*

RISLEY, HON'BLE H. H.—

Bengal Municipal Act, 1884, Amendment Bill . . . . . 6, 205 and 209
Financial Statement for 1893-94 . . . . . 167 and 190
Licensed Warehouse and Fire-Brigade Bill 50
Replied to questions regarding the Inspection of Tea-Gardens 204
Ditto · ditto Natural Drainage of Villages . . . 164

S.

SELECT COMMITTEES— PAGE.

	Appointed.	Report presented.	Report considered.
Bengal Municipal Act, 1884, Amendment Bill ...	6, 209 and 217	...	...
Licensed Warehouse and Fire-Brigade Bill ...	...	7	15 and 56

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS. See *Questions.*

SIRCAR, HON'BLE DR. MAHENDRA LAL—
Licensed Warehouse and Fire-Brigade Bill . . . 100, 101, 120, 129, 140 and 142

STATEMENT. See *Business ; Financial Statement.*

SURENDRANATH BANERJEE. See *Banerjee.*

W.

WALLIS, HON'BLE A. H.—
Licensed Warehouse and Fire-Brigade Bill . . 48, 58, 64, 80, 130, 141, 144, 157 and 160

WAREHOUSES. See *Licensed Warehouse and Fire-Brigade Bill.*

WOODROFFE, HON'BLE J. T. (*Officiating Advocate-General*)—
Licensed Warehouse and Fire-Brigade Bill . . 15, 52, 57, 62, 76, 77, 82, 91, 94, 96, 103, 107, 109, 114, 119, 120, 123, 124, 128, 129, 130, 135, 144, 149, 154, 159, 160 and 161

C. A. P.—Reg. No. 1373J—300—10-7-94.

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Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 7th January, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.
The HON'BLE T. T. ALLEN.
The HON'BLE H. J. S. COTTON, C.S.I.
The HON'BLE H. H. RISLEY, C.I.E.
The HON'BLE J. LAMBERT, C.I.E.
The HON'BLE H. LEE.
The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON'BLE A. H. WALLIS.
The HON'BLE MAHARAJAH SIR HARENDRA KISHORE SING BAHADUR, K.C.I.E.
The HON'BLE GONESH CHUNDER CHUNDER.
The HON'BLE P. PLAYFAIR.
The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

NEW MEMBER.

The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR, took his seat in Council.

STATEMENT OF THE COURSE OF BUSINESS.

THE HON'BLE THE PRESIDENT said:—"Gentlemen, I wish to make a brief statement regarding the prospects of legislative business during the present cold weather session. We have at present before us only two Bills—the Fire-brigade Bill, and the Bill for amending the Municipal Act of 1884. You are all aware that, in consequence of the passing of the Indian Councils' Act, it is intended to introduce considerable changes into the Council of the Bengal Province, as well as those of the other provinces, and, possibly, the Supreme

[*The President.*]

Legislative Council also; and, as soon as practicable, I understand that the Government of India intend to issue for our guidance the rules under which the business of the new and enlarged Councils will be carried on, and at the same time to instruct us to the extent to which this Council is to be enlarged, and the manner in which representatives are to be appointed to the Council. It seems to me, therefore, better on every ground that any legislation which affects the province at large, and is of great general importance, should be postponed until it can be dealt with by the enlarged and revised Council. But the Fire-brigade Bill is one of purely local interest, and the interests which are concerned in it are interests which, I understand, will be represented in much the same way in the revised Council as they are now. I believe, for instance, that it is intended that the Calcutta Municipality shall be represented in the enlarged Council; and for that reason I obtained sanction to the appointment to the Council of the Chairman of the Calcutta Corporation to represent the municipality while the present Bill is under discussion, in order that the municipality may not be worse off, but may be as fully represented now as hereafter. I propose, therefore, that as soon as the Select Committee have disposed of the business, and revised the Bill in the manner that seems best to them, we should proceed with the Bill as early as possible.

"But the Municipal Bill should not be carried further till the Council is revised and enlarged; and with regard to the Municipal Bill, I have to make a short statement as to the intentions of Government in dealing with it. A very large amount of official literature has come in, dealing with the proposed amendments, and these have been under the consideration of the Government; and it seems to me desirable, without in any way interfering with the authority of the Select Committee, that on any points on which the Government has come to a definite conclusion as to the manner in which the amendments proposed shall be dealt with, it would be desirable to facilitate the work of the Select Committee by announcing that decision, and so save them the trouble of discussing any points on which the Government has already decided. There has been a good deal of discontent and remonstrance against the Bill, as interfering with the principles of Local Self-Government, and as being a restrictive and reactionary step, putting the municipalities in a worse position than they were originally put when the present Act was passed in Lord Ripon's time. The sections which mainly come under these remonstrances, and which interfere, or seem to interfere, with

the independence of municipalities, are six in number. Under section 4 Government reserves the power to alter the boundaries of a municipality, and to separate from a municipality any areas of land which seem to be unsuitable for municipal administration. At present that power rests only with Municipal Commissioners themselves, and, therefore, taking that power out of their hands, and placing it in the hands of the Government—or rather, not taking it out of their hands, but giving Government the power to act, in places where the municipalities are unwilling to do so—is distinctly an interference with municipal independence. Section 12, clause '*4*', gives Government the power of placing any municipality in the second schedule, that is, of removing its power to elect its own Chairman and to appoint an official Chairman instead. Section 25 gives Government the power to sanction the election of a Vice-Chairman, whereas at present no such sanction is required. These sections are those to which my attention has been specially called, as being the sections most seriously remonstrated against, and which have borne the brunt of a very large portion of the criticism to which this measure has been subjected. It was stated by the HON'BLE MR. RISLEY, when introducing the Bill, and by myself, on more than one occasion, that no serious interference with the authority of Municipal Commissioners was intended; and that Government only intended to use these powers when absolutely obliged to do so, and that they were introduced as being a less serious interference with municipal liberty than the course provided for such emergencies by the present law. Under sections 65 and 66 of the present law, the Government has larger powers than it would generally desire to use when dissatisfied with the way a municipality is conducted, and when it seems to be necessary to remove the Chairman and appoint an official Chairman. Under the old law the only way was to practically destroy the municipality and reconstruct it. We thought that it was desirable and would not be unpopular to provide a gentle mode of interference than this, but the result shows that we were mistaken, and on further consideration we think it is not necessary to persevere in the proposal. I think you will all agree that it is right and wise of the Government to take note of the objections of those principally concerned; for no Government would act prudently in insisting on reforms distasteful to the majority of those concerned, so long as it was satisfied that the administration could be satisfactorily maintained by taking any other course. We have, as I said, received communications from a great number of quarters, and some of these have particularly

[*The President.*]

attracted any attention, as they are not the representations of the Municipal Commissioners themselves, who might be supposed to be too captious or too ready to discern a slight to their authority which was not intended. I refer to those bodies who represent the public, or certain sections of the public, at large. We have, for instance, received memorials from the Bengal National Chamber of Commerce, from the Bhagalpur Landowners' Association, from the Indian Association, and from the Barrackpore People's Association, all of which have considerable importance and authority. The unanimous tone adopted by all these Associations is that the election of their Chairman is a privilege which is prized above all others by the Municipal Commissioners and the people they represent in the administration of municipalities, and they have represented that no sort of opposition has been shown by the municipalities where the Government has laid its finger on any faults, but that the municipalities have always shown themselves ready and willing to correct these errors to the best of their ability. I am bound to say that this representation is quite accurate. There were two difficult cases brought before the Government at the time these amendments were introduced—one a case of the choice of an unsuitable Chairman, and the other a case of the inefficiency of a Chairman. In both of these cases, the Municipal Commissioners showed a reasonable spirit in accepting the remonstrances of the Government; in the one case an efficient non-official has since been elected, and in the other the appointment of an official Chairman has been asked for. Since this Bill was introduced there have been similar occurrences in Howrah, Arrah, Raniganj, Puri and Jessore. In all of these, it seems to me that the Municipal Commissioners have shown a spirit of tact and concession. In the first four places I have mentioned, the Commissioners agreed to the appointment of an official Chairman till such time as the malpractices or inefficiencies complained of were corrected; and in the Jessore case, they at once dismissed the Chairman complained of and have appointed a thoroughly efficient non-official gentleman in his place. It is the bounden duty of Government to take notice of facts like these, and therefore we came to the conclusion that these two sections of the amending Bill might be dropped, and that we might rely in future, as we have done before, on the stronger coercive sections 65 and 66, to which I have referred—sections which can be employed as a last resource, but which it is seldom necessary for the Government to make use of. I think it also right to inform you that, after we had come to this decision,

a despatch was received from the Secretary of State to the Government of India bearing on the same subject. He took very much the same line as I have just mentioned, as representing the course of opinion in my own mind and considered the sections undesirable, and desired that we should withdraw them. It is right you should know this, and that the public should know it. Our course is very much facilitated by this communication, and we feel strengthened by the knowledge that the Secretary of State has come to the same conclusion as the Government had done independently.

There are three other sections which I wish to mention here, which tend in the same direction. Section 29 authorises the appointment of a special officer to put municipal accounts in order, in cases where the auditing officer complains of those accounts being in an unsatisfactory condition, and considers such an appointment absolutely necessary. Section 31 deals with the appointment of assessors; it takes the assessment of taxes upon persons or houses altogether out of the hands of the Commissioners, and places them in the hands of an independent assessor. I have given this matter great consideration, and you are possibly aware that, in addressing a municipality recently in Chota Nagpur, I threw out a suggestion as to amending the Act in such a way as to provide for the appointment of an assessor only when complaints were made by Magistrates and when the Commissioner of the Division agrees that such a course was necessary. This is not a point on which Government has come to any definite conclusion, but desires to be guided by the deliberations of the Select Committee and of the Council. In all matters concerning the independence of the municipalities and which have given rise to complaints, to the effect that Government is interfering unnecessarily with the powers of municipalities, or is taking a reactionary step, not justified by absolute necessity, the Government desires to be guided by the views of the Select Committee, in the first place, and by this Council, in the second; and I hope you will consider this matter in that light, understanding that the Government places itself in your hands, and does not desire to do anything in the restrictive line, which the united wisdom of this Council does not consider necessary for the purpose of good administration. I trust, as far as I can foresee, that in the course of next month, the Council will be reconstituted under rules issued for our guidance; and that we shall then proceed to the discussion of the Municipal Bill, treating it in the spirit I have described to you."

[*Mr. Risley.*]

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.

THE HON'BLE MR. RISLEY moved that the Bill to amend the Bengal Municipal Act, 1884, be referred back to the Select Committee for consideration and report.

The Motion was put and agreed to.

THE HON'BLE MR. RISLEY also moved that the Hon'ble Maulvi Syed Fazl Imam be added to the Select Committee on the above-mentioned Bill.

The Motion was put and agreed to.

The Council adjourned *sine die.*

C. H. REILY,

Assistant Secretary to the Government of Bengal,
Legislative Department.

CALCUTTA;
The 10*th January*, 1893.

Reg. No. 876G—300—14-1-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 4th February, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.
The HON'BLE T. T. ALLEN.
The HON'BLE H. J. S. COTTON, C.S.I.
The HON'BLE H. H. RISLEY, C.I.E.
The HON'BLE J. LAMBERT, C.I.E.
The HON'BLE H. LEE.
The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON'BLE A. H. WALLIS.
The HON'BLE GONESH CHUNDER CHUNDER.
The HON'BLE P. PLAYFAIR.
The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The HON'BLE MR. COTTON in presenting the Report of the Select Committee on the Bill for the regulation of Warehouses and the maintenance of a Fire-brigade said:—

"It will be within the recollection of hon'ble members that this Bill was introduced into Council by the late Sir Henry Harrison, who, as President of the Fire-brigade Committee appointed by the Government, and as Chairman of the Corporation and Commissioner of Police in Calcutta for many years, was peculiarly qualified to advise and guide the Council in its deliberations on this Bill. On his death, the charge of this measure devolved on me under the Lieutenant-Governor's orders. I cannot mention the name of my dear and lamented friend without expressing my sense of the extreme loss which the Council has sustained by his death. In all departments of Government administration his loss is deeply felt, but nowhere more than in this Council, where

his sound and mature judgment, his persuasive eloquence and distinguished ability in argument and debate were for many years the pride and admiration of his colleagues. I am sure that I echo the sentiments of every member of this Council in paying this tribute of respect to his memory.

"Hon'ble members will observe that the Report of the Select Committee on this Bill is not unanimous. The difference of opinion relates to a question of principle, and I feel it right in presenting the Report of the Committee to detain you for a few moments by explaining the character of the difference between the majority of the Committee and its dissentient members. The dissent is signed by the hon'ble member who represents the Chamber of Commerce in this Council and by the Advocate-General. The ground taken up is that the cost of the fire-brigade, which is maintained for the public good and public convenience, should be borne by the community at large, and not by any particular section of it. This principle so broadly stated has much to commend it. But when more closely pressed, I think the Council will agree with me in recognising that it is a principle which can only be accepted subject to very considerable limitations. It is a fact that in other large cities where a fire-brigade is maintained, it is invariably or nearly invariably the rule to impose the whole burden of taxation for supporting the fire-brigade on the general community. This is the case certainly in the metropolis of England, where the duty of maintaining a fire-brigade rests on the London County Council, who are empowered to impose taxation to support the fire-brigade. No limit is imposed on the rate which may be levied for this purpose. And so in India, in large cities like Bombay there is a three-fourth per cent. rate levied on the population of the city, and in Rangoon also there is a general rate levied on the rate-payers as a body, and this undoubtedly is the course which it would be most easy to adopt in Calcutta. The Select Committee would have saved itself an immense amount of trouble if it had accepted this principle unreservedly and ruled that the whole cost of the fire-brigade should be borne by the rate-payers, and that it should rest on the municipality to levy a special rate, the proceeds of which would be sufficient to maintain the fire-brigade. This would have been the simplest form of legislation that we could have adopted. But to the majority of the Select Committee this course did not seem to be a fair one. It appeared to us that, in imposing a tax for the maintenance of a particular object, the fair and reasonable principle would be to apportion that tax on different members of the community in proportion to the advantages which it is estimated they will gain

from that object. If this principle could have been followed in other cities, I have no doubt it would have been adopted, but it seems that in other cities the difficulty of doing so has been found insuperable. In London, for instance, fires occur more often in residential dwelling-houses and in lodging-houses than they do anywhere else, and the fire-brigade is more largely employed in extinguishing fires which break out in residential dwelling-houses than in extinguishing fires in large warehouses. The chief object of the brigade is to extinguish the numerous fires which break out every day in various parts of that large metropolis. Similarly, in Bombay and especially in Rangoon, residential dwelling-houses are constructed of inflammable materials, and the risk of fire in them is considerable. It has therefore been found impossible to make any fair apportionment in those cities of the amount of rate which should be levied from ordinary citizens and from those engaged in trade or in commercial enterprizes which involve the construction of large warehouses. But in Calcutta the circumstances are very different. It was only twenty years ago since there were no fire-engines in this city. There were merely a few hand engines in use, and the whole establishment maintained did not cost more than Rs. 478 per mensem. About that time the jute business extended rapidly; and as jute is an exceedingly inflammable material, large fires were found to occur in jute warehouses where jute was stored, and the Chamber of Commerce and other public bodies addressed the Government, pointing out the risk run, the great losses sustained, and the necessity of maintaining an efficient fire-brigade to extinguish fires. After due deliberation a law was passed, which established a fire-brigade more or less on its present footing, and imposed the whole burden of maintaining the brigade on the jute industry. This law, subject to minor variations, has remained in force up to the present time, and it is still the case that the fire-brigade in Calcutta is entirely maintained by rates levied from jute warehouses. The Chamber of Commerce have for several years been representing that this is unfair. A Special Committee was appointed to enquire into the whole question, and the result is the preparation of this Bill, which is intended to meet the grievance from which the jute industry undoubtedly suffers.

"In the Report which I now have the honour to lay on the table, we have stated that we think that it is unfair to levy the whole rate on any one industry. At the same time I must distinctly affirm that the fire-brigade was established in Calcutta in order to meet the requirements of the jute trade,

and that the great majority of important fires occur, and always have occurred, in jute warehouses. If it were not for these jute warehouses I do not hesitate to say that the maintenance of the fire-brigade on anything like its present scale would be unnecessary. I do not know whether I am justified in saying that this city would be in a position to go back to the state of things which existed twenty years ago, but certain it is that the brigade, in its present state of efficiency and completeness, would not be required. It is on account of the jute warehouses that the brigade is maintained in its present organisation. For these reasons, the majority of the Committee considered that the jute industry should still continue to pay a large proportion of the funds required for the maintenance of the fire-brigade. We have added to jute various other commodities which may be described as of a highly inflammable character, and have laid down in the Bill that these commodities shall be kept in warehouses for which a special fee shall be levied and paid to the municipality. The scale of these fees is indicated in the Bill, and we have imposed as a limit to the total amount to be levied from warehouses the condition that, they shall not exceed one-half of the total sum required for maintaining the fire-brigade in any particular year. The most important items added to jute are hay, straw, wood and other things which, under the present municipal law, are liable to special taxation by the municipality. We have repealed the provision of the Municipal Act, which enables a special tax to be levied on those goods for general purposes. They will now be liable to taxation for a special purpose, namely, the maintenance of the fire-brigade. The reason why they are included is, that they are such inflammable materials as, in our opinion, justify their being placed in the same category as loose jute. The fees from these warehouses will form the bulk of the assets of the Fire-brigade Fund; but the aggregate of them will not be allowed to exceed half of the expenditure required for maintaining the fire-brigade. The remaining half of the assets will be supplied by rates imposed on the general community. We thought it fair that a special rate should be imposed on bustee owners. It is well known to all of you that the number of fires which occur in the clumps of huts in this city, known as bustees, are numerous and a source of great danger to the community. If they spread, no doubt the risk becomes very great indeed, and it is one of the duties of the fire-brigade to prevent these small fires which occur in these huts from spreading over a larger area. The existence of these bustees in a large city like Calcutta is a source of danger, and we consider it fair and reasonable that the owners of these bustees should

pay a special rate, which we have limited in the Bill to eight annas per cent. of their assessable value, for the maintenance of the brigade. The remaining sum which may be required for supporting the brigade, will be borne by a general tax imposed on the rate-payers of the town, excluding those who are already called upon to pay either on account of their warehouses or as owners of bustees. This general rate will be a very low one. We have proposed that the maximum shall not exceed one-eighth per cent. on all lands and houses assessed under the Municipal Act. The fairness of this rate lies in this, that the general community are undoubtedly protected by the existence of a fire-brigade. The individual risk which any individual house-owner may run in this city may be infinitesimal. Residential house-owners in Calcutta do not insure their houses, either in the north of the town where the permanent residents of Calcutta mostly dwell, or in the south where European residents live; and I believe I am well within the truth in saying that the insurance of houses and furniture in this city is practically unknown. This in itself marks the radical difference between Calcutta and cities elsewhere. Everyone among you who has a house in London knows very well that he insures the value of the house and of the furniture and fixtures and other things in it. This is the invariable rule in London, and it is the invariable rule in Calcutta not to insure. This is the main reason why a general rate is not unfair in London, and why it would be harsh and oppressive in Calcutta. But the circumstances are amply sufficient to justify the Legislature in imposing a very low rate on the rate-payers at large to assist in meeting any deficit which the other means of taxation placed in the hands of the municipality may fail to supply. The protection which ordinary householders derive from fires not being allowed to spread may be inappreciable in any particular case, but it is obvious that such a general risk exists, and that it is at all times within possibility that fires may break out in residential houses. In order to meet such risk and in recognition of the immunity which the fire-brigade affords to the general public, we have considered it fair that a low rate should be levied.

"These are the main reasons which have actuated the Select Committee in apportioning the taxation, from which the funds for the maintenance of the brigade shall be met, on different classes of the community. We have imposed on the owners of warehouses and places where inflammable goods are stored a heavier burden than we have laid on other persons, but we have largely reduced

that burden from what it is under the existing law. It is estimated that the amount to be paid by jute warehouses under the Bill will perhaps be less than one-third of what they now pay, and this will be a very great gain to the jute industry which has, I certainly do think, been unjustly charged with the whole cost for so long a period. Next the owners of bustees will pay their share, and finally a small proportion, which is very small in comparison to the large number of persons interested, will be contributed by the general rate-payer.

"Now, Sir, in making this apportionment we have attempted an extremely difficult task—so difficult that I believe no other city under the British Empire has been able successfully to cope with it. We are making an initial attempt to be fair and just in the imposition of this special taxation for the maintenance of a special department. It is a very easy thing to impose a rate on the general community sufficient to bear the whole cost; it is very easy to single out a particular industry and make it bear the whole burden. But it is very difficult to apportion the cost among different sections of the community in proportion to the benefit which it is estimated they derive. It is this task we have attempted, and I trust that the assistance we shall receive from the members of this Council, in considering the detailed clauses of this Bill, will enable us to remedy and perfect any defects which may be detected in the measure as it now stands.

"I have prepared, for the information of the Council, two statements which have been circulated and laid before hon'ble members this morning. The first of them shows the estimate of receipts for the current year for the maintenance of the fire-brigade, the whole of which is paid by jute warehouses, and which has been sanctioned by Government under the existing law: the second statement shows the amounts which it is estimated will be borne by fees from warehouses and by special and general rates under the Bill as now framed. Both estimates are calculated to meet an expenditure of about Rs. 60,000 a year for the maintenance of the brigade. The estimate assumes that the jute industry of Calcutta, which now contributes a grand total of Rs. 28,000 for the maintenance of the fire-brigade, will henceforward pay Rs. 8,600 towards that object; that the sum of Rs. 8,000 will be levied from other warehouses in Calcutta; and that the total sum of Rs. 16,500 will be levied from Calcutta on account of warehouses as they are defined in the Bill. It is estimated that a sum of Rs. 25,000 will be levied from Calcutta by means of a special rate on bustees and a general rate. The total contribution from the town of Calcutta would amount then to Rs. 41,600 as

against Rs. 28,000 now levied, the increase being entirely from bustee owners and warehouses other than jute warehouses and from the general rate-payers who, we consider, should pay some share of the cost. As regards other municipalities, the amounts they pay would be largely reduced. The sum paid by the Cossipore-Chitpore Municipality, which is entirely from jute at present, is Rs. 33,000, but it would be reduced to Rs. 10,500, that is to say Rs. 10,000 from jute warehouse and Rs. 500 from other warehouses; the Manicktollah Municipality, which pays Rs. 15,000 at present entirely from jute, would pay Rs. 6,000, of which Rs. 500 will be from other warehouses; and Howrah, which pays Rs. 6,250 from jute alone, would be reduced to Rs. 3,000, of which Rs. 200 will be from other warehouses. These estimates, which are put forward on my own authority and by way of illustration only, cannot of course bind the Government or municipalities concerned, but they will assist hon'ble members in judging of the changed incidence of taxation which is likely to arise if the Bill, as now drafted, is passed.

"I do not wish to detain the Council in regard to any of the minor points contained in the present Bill. The most important is, I suppose, that which lays down that warehouses shall be open to the inspection of an officer appointed by the Commissioner of Police; provided that such officer shall be a member of the fire-brigade, and not a member of any police force. The effect of this provision is, that the Inspector of warehouses will, in future, not be a municipal officer, but will be an officer who will work under the orders of the Commissioner of Police. The executive control of the fire-brigade will be left, as it is now, entirely in the hands of the Commissioner of Police, and the funds will, as they are now, be collected by the Municipal Commissioners; only their powers for this purpose will be greatly enlarged and changed. The apportionment of the taxation among the several municipalities interested—Calcutta and the municipalities in its immediate vicinity—is not laid down in the Bill itself, but is left to the Government to decide.

"For the rest the changes are described in the Report of the Select Committee. The intricacies of the Bill are considerable, and I have no doubt that hon'ble members would wish for some time to consider it for themselves, and also to consult their constituents as to how they are affected by the changes proposed. Today, therefore, I intend to merely lay the Report of the Committee on the table. At the next meeting of the Council we shall proceed to consider

[*Mr. Cotton.*]

the Report and to discuss the Bill in its several clauses. It will remain for the President to decide the date on which we shall meet again for this purpose."

The Council adjourned to Saturday, the 11th February, 1893.

C. H. REILY,
Assistant Secretary to the Government of Bengal,
Legislative Department.

CALCUTTA;
The 9th February, 1893.

By subsequent order of the President the Council was postponed to Saturday, the 18th *idem.*

C. H. REILY,
Assistant Secretary to the Government of Bengal,
Legislative Department.

Reg. No. 935G—300—13-2-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., Cap. 67.

THE Council met at the Council Chamber on Saturday, the 18th February, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.
The HON'BLE T. T. ALLEN.
The HON'BLE H. J. S. COTTON, C.S.I.
The HON'BLE H. H. RISLEY, C.I.E.
The HON'BLE J. LAMBERT, C.I.E.
The HON'BLE H. LEE.
The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON'BLE A. H. WALLIS.
The HON'BLE GONESH CHUNDER CHUNDER.
The HON'BLE P. PLAYFAIR.
The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The Hon'ble MR. COTTON said:—"At the last meeting of the Council I presented the Report of the Select Committee on the Bill for the regulation of Warehouses and the maintenance of a Fire-brigade, and explained at some length, for the information of this Council and of the public, the principles which had guided the majority of the Select Committee in the preparation of the Bill which had been laid on the table. I have now the honour to move that, the Report of the Committee be taken into consideration in order to the settlement of the clauses of the Bill."

The Hon'ble MR. WOODROFFE said:—"Sir, the Motion, which I have the honour to move, embodies the general principle enunciated in the dissent to the Report of the Select Committee, signed by the minority of that Committee. In presenting the Report of the Committee to the Council at its last meeting, the

Hon'ble Member in charge of the Bill, although there was before the Council no motion for the consideration of that Report, took occasion to explain the principles upon which the majority of the Committee had proceeded, and upon which the view taken by the majority of the Committee would be maintained. I listened with considerable attention and great interest to the speech of the hon'ble member. I was naturally anxious to hear what might be said in support of the view of the majority, and as the hon'ble member's speech proceeded, I felt myself growing more and more interested, because, though it may be that I was in error in so thinking, I arrived at the conclusion that, most of the observations which fell from the hon'ble member tended rather to weaken than to support his contention.

"The principle, Sir, which is involved in the Motion which I now move is, that the taxation of commercial interests for matters affecting the public good and the public convenience is opposed to all sound principles of political economy, and of those rules which govern the incidence of taxation in civilised countries. 'The general community are undoubtedly protected by the existence of a fire-brigade.' Those are words which I take from the Hon'ble Mr. Cotton's speech; and the hon'ble gentleman in defending the principle of imposing a tax on the general community, which should be of light incidence, went on to say that, 'in recognition of the immunity which the fire-brigade affords to the general public, we have considered it fair that a low rate should be levied.' There can be no question, it seems to me, Sir, but that the community generally, and as such, is protected by the existence of a fire-brigade, and that it does afford such immunity to the community as the hon'ble member maintained. The hon'ble member's words are but an echo of a statement made on this subject by the then Lieutenant-Governor of Bengal in a letter dated the 15th of February, 1878, in which His Honour stated: 'The maintenance of the fire-brigade is an object in which all classes of the community are interested, and to which all ought to contribute.' This position is so clear, that it seems unnecessary to adduce arguments in support of it. It is a fact admitted by the hon'ble member in the speech to which I have referred. It is admitted in the Bill even as now framed that, there is immunity provided to the general public as such by the existence of the fire-brigade. It is sought, however, to distinguish and to show that, that general rule is not to be applied to Calcutta. In other words, that to Calcutta the principle of taxation of commercial

interests for the public benefit, for the public safety and for the public convenience, is to be applied.

"I know of but two instances in which this principle has been accepted. One of them was in Egypt, but, under the administration of the noble Lord who is now at the head of affairs in Egypt, it no longer exists; the other is still in force in Calcutta. Some years ago, I read that when in Egypt it was desired for some reason to throw a bridge over a canal, the persons who were made to pay for that work were the boat-owners who passed under it.. They did not particularly want the bridge, but the bridge compelled the boats to lower their masts and take down their sails; and it was accordingly considered but fair and natural, they should be made to pay the tax. Calcutta still retains, in the present system of taxation for the maintenance of the fire-brigade, this truly Egyptian policy. It taxes the commercial interest for the benefit of the public, and it is sought to maintain this untenable position upon the ground that, the commercial interest to a greater or a less extent shares in the benefit.

"The principle, Sir, for which I am contending, has been recognised by the Legislature with growing distinctness both in England and in this country. In England, under the Act of 14 Geo. III, C. 78, s. 75, it was provided that 'fire engines shall be kept up by the several parishes in and around the metropolis', and so until 1865, the law continued when there was established the Metropolitan Fire-brigade Act, 28 and 29 Vic., Cap. 90. Between the Act of Geo. III and the Act of Her present Majesty, to which I have referred, it was found, that the parishes were remiss in the discharge of the public duty which had been laid on them. Accordingly in or about the year 1833, the Fire Insurance Offices in London banded themselves together, for the purpose of making proper and better provision for the extinction of fires than was then in existence. The Association was a purely voluntary one, and was, in the first instance, established for the purpose of extinguishing and preventing the spread of fires in or to buildings which were covered by insurances. The establishment was maintained at a large cost by the Insurance Companies, and shortly before the passing of the Metropolitan Fire-brigade Act in 1865, an arrangement was made with the Metropolitan Board of Works, by which the establishment which had been provided and maintained by the Fire-brigade Association was handed over to the Metropolitan Board of Works; and the value of the material so handed over, was then estimated at about £30,000.

"On the passing of the Act, the funds necessary to be raised for the purposes of the Metropolitan Fire-brigade Act were obtained by a contribution, I think, of £35 per million from Insurance Companies; by the grant of £10,000 a year from the Government, in consideration of the services rendered or likely to be rendered by the fire-brigade for preventing fires in and the spread of fires to public offices, and by a general tax of a half-penny in the pound. Here, there is a clear recognition of the general liability of the public to maintain a fire-brigade. Intermediately there had been passed an Act, known as the Police Clauses Act of 1847, and many other public general Acts, which authorised the maintenance, out of rates to be levied thereunder, of the cost of firemen, fire-engines and other requisites for the extinction of fires and for preventing the spread of fires. And I may say that at the present moment, with, I believe, the exception of the boroughs of Salford and Liverpool, where under two local Acts the costs attending the extinction of fires are chargeable in the case of insured property upon the Insurance Companies, all the large cities in Great Britain and Ireland maintain their fire-brigades out of public rates. It is so in two cities in which there is a great deal of work carried on, involving the use of inflammable materials. I allude particularly to the case of Belfast, in which there is a large ship-building industry, and to the case of Dundee, where there is a very large jute industry. So far as I have been able to ascertain, there is no city on the continent of Europe in which the inhabitants do not pay for the cost and maintenance of the fire-brigade. In many of these cities, there are not the same strict rules, so far as I have been able to ascertain, as prevail in London and the large cities of Great Britain and Ireland, in respect of the building of houses—rules which minimise to the utmost extent the risk of fires in those cities; yet in almost every instance in which I have been able to inquire into, the fire-brigade is maintained out of general rates.

"This principle has also received recognition in this country. In 1872, when a fire-brigade was first established, it was provided by the Act II of 1872 of this Council, section 29, that, the full amount of the charges of the fire-brigade, over and above the monies which might accrue to the Fire-brigade Fund under sections 25 and 26 of the Act, which are the fees and fines in respect of licenses and the contribution by Insurance Companies, should be contributed by the Justices of Calcutta and the Commissioners of the Suburbs in the proportion of seven-tenths and three-tenths. By Act III of 1884 of this Council, section 69, the Commis-

sioners at a meeting were empowered, so far as the Municipal Fund permits, to apply that Fund to any works within the municipality of public utility, calculated to promote the health, comfort or convenience of the inhabitants; and amongst other objects stated in that Act, and which fall within this description, I find the maintenance of a fire-brigade along with the establishment and maintenance of schools and the maintenance of hospitals. Probably, the clearest and widest enunciation of this principle is to be found in the Act which, at the present moment, regulates the Calcutta Municipality. By section 35 of that Act, all the properties vested in the Commissioners, and all funds received or raised by the Commissioners in accordance with the provisions of that Act, shall be applicable to the purposes expressly authorised by that Act. What are the purposes expressly authorised by this Act? Section 36, the following section, answers the question. It runs as follows:—'The purposes expressly authorised by this Act shall be held to include the objects connected with the public safety, health and convenience hereinafter specified, that is to say, No. 1—the payment of all or any portion of the cost of the fire-brigade for the extinction of fires in Calcutta.' Then follow a number of objects, and the section concludes with the words 'and generally all objects connected with the public safety, health or convenience.' That the Legislature in this country has therefore, in unmistakeable terms, given in its adhesion to the principle of the maintenance of the fire-brigade as a matter of public utility, as a matter which affects the public safety, health and convenience, of the inhabitants, is beyond all doubt.

"Why, then, has Calcutta been singled out for exceptional treatment? In 1871, several fires occurred in jute stores situated in the central part of this city. The Chamber of Commerce, the Trades Association, the British Indian Association and several other public bodies presented petitions to the Government to take this matter into its consideration and to adopt measures calculated to promote the public safety, and to protect the public from the occurrence of fires. On the presentation of memorials to this effect to the Government, a Bill was introduced into this Council, which was afterwards passed into law as Act II of 1875; and I shall have presently to point out the entirely different state and condition of jute warehouses and places for storing jute, as they were then known to exist and as they exist now. Suffice it to say for the present that, they were then in a totally different state and condition from those in which they are now found. They were, as I shall show from the observations of

the Hon'ble Mr. Bernard in introducing that Bill, in an absolutely different state from what they are now as shown in the very able report of my hon'ble friend Mr. Lambert, in his capacity as Commissioner of Police.

"Even then, when jute warehouses were in such a state as they were when this Act was passed, it was not then the intention of the Legislature to impose the whole liability for the maintenance of the fire-brigade on the jute industry. That is manifest from the fact that, that Act provides for the meeting of the deficit, if any, from the funds of the Municipalities of Calcutta and the Suburbs. It imposed a scale of fees on jute warehouses, which ranged, I think, from Rs. 100 to Rs. 1,000 a year, and fees on Insurance Companies. For whatever reason it was, whether for want of adequate information as to the number of places for the storing of jute or from other causes I know not, but it is manifest that, the scale of fees imposed on jute warehouses was excessive—grossly excessive; and from the income derived therefrom, for practically it is with that alone we need concern ourselves, the whole cost of the fire-brigade was maintained. That, with but minor alterations not bearing on the present question, is the state of the law as it exists at present. The rates were so excessive that, between the month of August, 1875, and the month of April, 1881, there was paid away out of the Fire-brigade Fund a sum of Rs. 1,26,552. Who received the benefit of that sum? The Municipality of Calcutta—Calcutta in that wider sense in which it is now dealt with under Act II of 1888 of this Council. It received in August, 1875, a sum of Rs. 35,000 towards the widening of a lane near the Municipal Office, and a subsequent grant of Rs. 5,000 for the same purpose in January, 1876. In November, 1875, Rs. 16,275 was given to the Alipore Lock-hospital; in January, 1876, a grant of Rs. 10,000 was made to the Suburban Municipality, and in 1881, Rs. 60,000 was given for widening Chitpore Road. That the Act of 1879, when passed into law, tended but ineffectually to reduce the incidence of this taxation on commercial interests, is manifest from the fact that, in 1881, there was surplus money to the extent of Rs. 60,000 to be paid away.

"The law stood so until 1883, when it was found that, owing to the limitation of seven-tenths as against three-tenths and to the further limitation as to the amount to which the three-tenths should run up to, the jute industry had, in a great measure, removed from Calcutta to the outlying Suburbs. In 1883, there was passed Act IV of that year, which is the existing law. It did away

with the proportion of seven-tenths and three-tenths. The Insurance Companies had been relieved by the intermediate Act, but it still made the Fire-brigade Fund pay one and a quarter times the cost of the fire-brigade. Eighty per cent. of the collections, under the head of fees, were paid to the Commissioner of Police for the up-keep of the fire-brigade; 20 per cent. went to the Calcutta Municipality for the collection of those fees. There can be but little doubt that, during all these years, the Municipality has made a very good business of it in respect of that 20 per cent., in addition to the sums of money which I have shown it has received.

"Speaking of this state of affairs, the late hon'ble member of this Council, Sir Henry Harrison, in introducing the present Bill into Council, observed that, 'the jute legislation had reached that position rather by the process of drift than by any intention on the part of the Legislature.' I would recall the Council from this policy of drift, and ask that the matter be put on the fair, proper and reasonable footing, by the incidence of taxation being thrown on the community at large. Why, I ask again, is it that Calcutta has been singled out? This retrospect in the history of the legislation, in respect of the jute industry, shows that the Municipality had, like spoilt children, been educated into the belief that, they had a right to be exempted from the obligations which naturally and justly fall upon them. They ask, why should the previous state of things be altered? Why, to use the concurrent language of the Indian Association and the Municipality, who seem to be entirely in accord in the present matter—why should there be at one bound this relief to the jute industry? Is it the contention of hon'ble members who support the Bill that, continuance in wrong-doing is ground for its maintenance in perpetuity? Surely not; what other reasons, then, can be suggested? That which I have just mentioned seems to me to be the one which ranks first in the minds of all those who have expressed an opinion on this subject, in accord with the majority of the Select Committee. As this Bill has been introduced into Council for the purpose of relieving the jute and other cognate industries from the unjust and oppressive incidence of taxation, I ask why should not the matter be fully considered, and if justice demands it, let justice be done?

"But it is said, Sir, that there are other reasons. It is suggested that, there is a radical difference between Calcutta and cities elsewhere throughout the civilised world. I deny this radical difference. It is said that, it has been found impossible in those other cities to make a fair apportionment between the amount of rate to be levied from ordinary ratepayers and from those engaged in

commercial enterprises; in other words, that Calcutta is different from every other city in respect of the fire-brigade, and it has successfully attempted and overcome difficulties which have been found insurmountable in other countries. If others failed, I think we shall fail too. But I deny that, it has been found impossible in other countries to make a fair apportionment between the amount of rate to be levied from ordinary rates and those engaged in commercial enterprises, because there has never been made any such attempt. The principle, involved in this endeavour, does not commend itself to those who understand the principles of political economy. As soon as one makes this attempt, he finds himself beset by enormous difficulties. The hon'ble member, with a courage worthy of a better cause, has not shrunk from the abyssnal depths of differential taxation, and has succeeded in producing a Bill which commends itself to nobody. The Calcutta Municipality does not like it; the Chamber of Commerce object to it; the Trades Association have intimated their dissent from some details of the Bill; the Bengal National Chamber of Commerce is not satisfied with it, and the last contribution from the Indian Association, also falls foul of it and challenges it on the ground that, it contravenes the principles of Local Self-Government. I do not see that it interferes with the principles of Local Self-Government in the least. The first principle of Local Self-Government is, that all classes should bear the burden necessarily incident upon them, and that individual selfishness should give place to public interests.

"What is the difference between the houses in other cities and the houses in Calcutta? It is said that, in the residential quarters of Calcutta houses are built of uninflammable materials. But what about the residences of the citizens of Calcutta, whose lives and property are just as dear to them as the people who live in the residential quarters? Go up to the top of the tower in the Telegraph Office, or any other place of height in Calcutta, and look down upon what is spread before you. What will you see? With the very small exception of the quarter which is known as Chowringhee and some quarters in the north of the town, you will find a large mass of residences of the poor which are distinctly of an inflammable character, and those you will find fringed round by streets and lanes of pucka-built houses. In every one of these houses fire may break out, and in this City fires do frequently break out in such dwellings.

"In Bombay, the cost of the fire-brigade is borne by a three-fourth per cent. rate; in Rangoon, it is paid for out of the general rates; in Madras, so far as there are any appliances for extinguishing fires, they are paid for by the

Municipality. Calcutta seems to stand alone. The houses in the residential quarters of Calcutta are no less substantially built than those in England. The sole difference, so far as I am aware, between the building of pucka houses in Calcutta and the building of every house in every street in London is, that there are almost universally wooden floors in London houses, whereas they are to be found in but few houses here. On the other hand, in the Metropolitan district, there is a far more extensive and a far more careful application of the rules relating to buildings, by which the risk of fire is minimised to the utmost.

"Further, it is said that, the cost of the fire-brigade should continue to be borne, though not in whole yet at least to the extent of a moiety, by the jute industry and other cognate industries, because, first, of the state of things which existed in 1871 and which led to the establishment of the fire-brigade. In the proceedings of this Council of December, 1871, the Hon'ble Mr. Bernard, in moving for leave to bring in a Bill to amend the law for the registration of jute warehouses and to provide for the establishment of an efficient fire-brigade in Calcutta and the Suburbs, spoke as follows:—'In January last, there were 247 jute warehouses in Calcutta alone, besides those in the Suburbs.' I believe, if my information be correct, that the number of jute warehouses in Calcutta now is less than half of that number. The hon'ble member went on to say:—

'As hon'ble members of Council well know, the custom at many warehouses and pressing places was, to leave the jute drums and loose jute out in open yards and to spread jute clippings over the courtyard, when a press might be at work. These jute yards were generally in the heart of the most populous parts of the city; some of them were in the midst of the mercantile quarter on the river-bank. It would be in the recollection of most of us that, a few weeks back a fire broke out in a jute screw-house on the quay, and that fire, if there had been any wind, must have reached an adjoining jute store; it might have destroyed the quarter of Calcutta which contained all the chief warehouses of foreign goods, and it would probably have spread to the shipping.'

"The hon'ble member further said:—

'A few days ago, two Calcutta firms which had their offices and godowns on the quay complained to the Magistrate against a jute warehouse next door to them. In the enclosure of their store, there were some 200 square yards of ground covered with jute clippings; the stack of clippings was 12 feet high and topped the wall of the yard. On one side of this yard, was a steam-engine and its fire; on the other, was a large forge constantly at work. If a spark had fallen from either of these fires on the jute clippings, and there had been any wind, a most disastrous fire must have been the result.'

[*Mr. Woodroffe.*]

"It was, Sir, to meet cases of this kind, and with reference to circumstances of this nature, that that Bill was brought in. But that is not now the condition of the jute warehouses and jute presses—far from it. Secondly, because it is stated, that by far the largest number of fires of an important character occur in jute warehouses. The meaning of the phrase is wrapped in obscurity from the use of the word 'important.' What is an 'important' fire? Is it a fire in which the largest amount of property belonging to any one person is consumed? Surely not! Regarded by the community at large, the burning of a jute warehouse in which there may be thousands of bales of jute, disastrous though it may be to the individual, is less disastrous than a fire occurring in a basti, in which all the property of the inhabitants may be utterly destroyed, and even their very lives may be at risk. Such fires spread with a rapidity wholly unknown to the conflagration in a jute warehouse. But turning from the question of injury to the individual, the risk arising from fires in bastis and tiled huts is far more dangerous, because more widely spread and less under control. That appears to me to be the real test of importance. In a letter from this Government to the Government of India, dated the 3rd of February, 1892, the Hon'ble Mr. Risley wrote: 'The measure of liability to contribute is the risk of fire incurred, not the value of the property or the amount of possible damage.'

"But how does the matter stand as regards the question of fires? The Hon'ble Mr. Lee, in 1890, then untrammelled by the weight of legislative responsibility, and speaking in his character of Chairman of the Municipal Corporation of Calcutta, took up the position that '90 per cent. of the property destroyed by fire during the four years, 1886 to 1889, belonged to the jute and cotton interests.' [The Hon'ble Mr. Lee said:—'I did not use those words. Those words are not to be found in any letter or statement of mine.'] If I misrepresent the hon'ble member, I sin in excellent company. In a letter from the Government of India, dated the 18th of February, 1891, (Municipal), I find it stated, over the signature of the hon'ble member opposite (Mr. Cotton), as Secretary to the Government of Bengal, that in a letter from the Chairman of the Corporation of Calcutta it was stated that 'the Commissioners of Calcutta also object to any portion of the cost of the fire-brigade being defrayed by the general rate-payers; they consider, on the contrary, that the fire-brigade should still be maintained by the jute industry, and they adduce the following arguments in support of their opinion that, 90 per cent. of the property destroyed

by fire during the four years, 1886 to 1889, belonged to the jute and cotton interests.' That objection was made on behalf of the Municipality by the Hon'ble Mr. Lee. Mr. Cotton writes:—

'The letter from the Chairman to the Corporation of Calcutta was forwarded by Government to the Commissioner of Police, for an expression of his opinion. Mr. Lambert's reply, dated the 26th of December, 1890, takes exception to the arguments put forward by the Municipal Commissioners. It is argued that, of the fires which took place during the four years (1886 to 1889), only 15 occurred in places licensed under the Jute Warehouse Act against 123 fires in other places; and that the value of property destroyed by other fires almost equalled that destroyed by fires in licensed warehouses: the damage caused in jute fires being estimated at Rs 8,70,810 against Rs. 7,64,265 in other fires. Mr. Lambert shows, that the strength of the brigade is in a great measure fixed with reference to the prevention of the spread of a conflagration, not from jute warehouses which are surrounded by high walls, which confine the flames and minimise the danger of the fire spreading, but from bastis, woodyards, straw-stacks, &c., where the risk of the conflagration extending to adjacent buildings is very great. The supply of water, he admits, is a benefit to the brigade; but he observes that, as a fact, out of the 138 fires which occurred during the four years, pipe-water was used in 37 only. The Commissioner of Police also observes that, a contribution from municipal funds to the fire-brigade would not do greater violence to the principles of Local Self-Government than the contributions now made by the Corporation to public hospitals and to the cost of surveying the town of Calcutta.'

"Dealing with this matter, the Fire-brigade Committee in their report to this Government stated in their tenth paragraph that, the statement of fires furnished by the Commissioner of Police for the four years, 1886 to 1889, though it showed heavy losses in jute warehouses, showed clearly that 'the numerical majority of fires break out in other places, and that it is impossible to deny that the general public derive much protection from the fire-brigade.' The reports of the Commissioner of Police as Chief of the Fire-brigade showed that, for the four years ending in 1892, that is, from 1888 to 1892, out of 139 fires, only 10, that is to say 7 per cent. of the whole, occurred in warehouses licensed under Act IV of 1883; and that the property which was destroyed in those fires only came up to 23 per cent. of the total value of the property destroyed in the 139 fires, which occurred during those four years. This dispels at once the statement as to the number of fires occurring in jute and cotton warehouses, and the value of the property destroyed in them. Extending the statistics so as to cover the period of seven years from 1886 to 1892, it would appear, from a representation made by the Bengal Chamber of Commerce to the Secretary of this Government during the time

that this Bill was going through the Select Committee, that there were during that period, 247 fires; that of these, there were 17 fires in buildings registered or licensed under Act IV of 1883; six fires of jute in unlicensed places, and 11 fires on board vessels in the river; and that the fires in other places not falling within the above category amounted to 213, that is to say, 86 per cent. of the fires which took place in Calcutta in the seven years from 1886 to 1892, both inclusive, were in places other than in licensed jute warehouses, or in jute stored in unlicensed places, or on board vessels; and it further appears that the total value of the property destroyed in all these fires amounted to Rs. 28,42,000, of which only Rs. 8,37,500, or 29 per cent. worth of property, was stored in licensed warehouses. It cannot therefore be contended that, the fires in Calcutta were solely, or even to the extent of one-half, contributed or occasioned by fires jute warehouses.

"That argument therefore fails. But it is said that, the legislation which was necessary in 1872 is necessary to be maintained now in a modified form. That also I question, and I question it on the same most undoubted authority, namely that of the Commissioner of Police who is specially charged with the working of the fire-brigade, and to whose services and that of the fire-brigade staff, Calcutta owes so much. The Commissioner of Police, after dealing with the assertion of the Municipality that '90 per cent. of the fires in Calcutta are due to the jute industry', thus deals with the Hon'ble Mr. Cotton's argument that, if it had not been for the jute industry, a fire-brigade would not be required in the efficient state that it is. The Commissioner of Police says in the letter already quoted:—

'The strength of the fire-brigade is in a great measure fixed by the reference to the prevention of the spread of a conflagration, not from jute warehouses which are surrounded by high walls, which confine the flames and minimise the danger of the fire spreading, but from bastis, woodyards, straw-stacks, &c., where the risk of the conflagration extending to adjacent buildings is very great.'

"There is the source of danger indicated in clear and unmistakeable terms; and it is pointed out by the Commissioner of Police that, these buildings are now of a substantial character, that the measures taken to prevent the spread of fire from them are effectual and that, when a fire breaks out in a jute warehouse, it is often beyond the power of any fire-brigade, however well-manned and however effective, to put out the fire. But there is a thing it can do and which it does do. It prevents the spread of fire from the place or building in

which it occurs to the adjoining buildings by pouring water on it and so preventing the rise of sparks by making a free passage and isolating the fire, or by so keeping it under in the place in which it occurs, that the danger is entirely removed or most materially reduced.

"In more than one of the objections put forward by the Municipality there is involved this patent fallacy, that the cost of the maintenance of an institution required for municipal purposes generally affecting the public health, safety and convenience, is to be borne only or mainly by certain persons deriving a certain special benefit. That is not the principle of civic life. The principle of civic life is, that every citizen shall, in accordance with his means and property, bear the burden or cost of those matters and things which subserve the public benefit, health, convenience and safety, though he may derive no benefit from them at all. As well, may we have blind men protesting that, they ought not to be bound to pay a lighting-rate because they cannot see and do not require light. A doctor will tell you that, there are men who are particularly susceptible to malarial influences. Shall a heavier sewage-tax be imposed upon them, as being more likely to be affected from want of proper sewerage? Why impose a tax on the unmarried for education? You might ring the changes from one end to the other of the system of taxation and find yourself confronted with matters of this kind. In each case, the individual must contribute to the public good. It may be asked—And what is the benefit which jute warehouses receive if a fire is not capable of being put out? The goods therein must burn, and the private individual suffers loss, but the benefit to the public remains. The fire does not spread.

"Now a few words more as to the difference in the state between jute warehouses in 1871 and 1872, and the present time. I quote again from the Hon'ble Mr. Lambert's report. He says:—

'The jute industry was, it would appear, required in the first instance to contribute to the expense of maintaining an efficient fire-brigade, because jute warehouses and yards were situated in the heart of the most populous parts of the city, and because loose jute was spread out and stacked in open yards often in close proximity to steam-engines.'

"The hon'ble member, no doubt, had the speech of the Hon'ble Mr. Bernard in his mind. He went on to say:—

'Open yards for the storage of jute were to be found in the wealthiest quarters of the town, and the danger arising from this condition of the trade laid upon that industry the burden of contributing to the support, and eventually, of solely supporting the fire-brigade.

But this state of affairs has entirely changed during the past 18 years. The largest jute warehouses now lie outside the mercantile quarter of the city; loose jute is no longer stored in open yards, and jute presses and warehouses are now substantial masonry buildings, well adapted to stop the spread of fire. At the present time, there is infinitely less risk of the spreading of a fire in a jute warehouse, than of a fire in a basti or the centres of the mercantile community in the native quarters of the town.'

"That is the deliberate opinion of a gentleman who knows what is the state of things. Before I pass on, allow me to supplement what I have said, with respect to fires. The Hon'ble Mr. Lee, in his report No. 33J., dated the 1st of July, 1891, on the working of the Licensed Warehouses and Fire-brigade Act in Calcutta during the year 1890-91, states in paragraph 8: 'No case of fire in any jute godown has occurred in the year under report.' In that year, there were 104 licensed warehouses on the register, and not one single fire occurred. Mr. Lee was succeeded by Mr. Ritchie, and he, in his report for 1891-92, paragraph 7, states: 'There was no case of fire in any jute warehouse during the year.' That brings the matter down to last year. It cannot then be said that, jute warehouses are in themselves such a source of danger to the community at large as to justify any special taxation upon them. The large and vast majority of fires occur elsewhere.

"And now I proceed to show, in addition to what I have pointed out to the Council, basing myself on the authority of the letter of the Commissioner of Police, that the danger of fire from jute warehouses is minimised by the use of every possible appliance to check the spread of fire. I believe it will not be denied that, there is no instance of fire spreading from jute warehouses to any other buildings. Their own brigade and the manner in which the jute warehouses are constructed, obviate the possibility of this. Not only are these buildings now constructed of a substantial character, and the storing of loose jute in open spaces entirely superseded, but most important steps have been taken towards safeguarding them from the risk of fire. Everybody knows that a prudent man insures his place of business, and in order to secure favourable rates from Fire Insurance Offices, jute warehouses have been provided with various means and appliances for preventing and extinguishing, and circumscribing fires. At Messrs. Ralli Brothers' press at Golabari, there is a Merryweather's portable steam-engine kept standing ready for use at all times, and there is a special staff of firemen always on duty at night to work the fire-service. The suction-pipe from that engine is let into the water-supply tank, and delivery hoses are attached to the two discharge branch pipes ready for immediate work. Besides

that, there are two portable manual pumps which can be worked by about twenty men each at all times, ready for immediate action. In addition to these, there are 39 hydrants distributed all over the premises and connected with the main engine. Each hydrant has a hose box adjoining it, containing the delivery hoses, nozzles, &c. There is an aggregate supply of 10,000 gallons, and the tank belonging to this Press is supplied from the river.

"To such a state of efficiency has this Press come, that they are not only absolutely independent of any fire-brigade but they were in March 1890 and 1892, able to give the greatest assistance at the fires which took place at the Bengal Hydraulic Press and at Baliaghatta. In the latter instance, at a time when the resources of the fire-brigade were taxed to the uttermost in consequence of there being at the same time a fire at Howrah, at the Sibpur Jute Mills. The Strand Bank Press is another well-equipped press, and so is the Canal Press, which possesses a Tangye's duplex pump with piping laid throughout the works. In these two Presses, the pumps are supplied with water from the river.

"I mention these among others which could be mentioned. In the largest and which, according to the Hon'ble Mr. Cotton are the most important fires which are likely to occur, the persons concerned are practically independent of the fire-brigade. Not only is the condition of fires in 1872 not in existence now, but the jute industry has practically rendered itself almost secure from danger from fires, and is almost entirely independent of the fire-brigade itself.

"But there are other reasons why this principle, supposing it were a fair and just principle, should not be applied to Calcutta. I have dealt with one of them, namely, that the state of things is such as to show that there is no obvious reason for applying this most extraordinary principle in the most extraordinary manner to this most extraordinary town. And it is this. At the present moment, money is contributed by the jute industry towards the funds of the town, amounting to Rs. 6,327 per annum. There were transferred to the Municipality various sums standing to the credit of the Fire-brigade Fund, amounting to Rs. 1,66,752, and those monies have been spent in making substantial improvements; and it must be assumed that, those sums would not have been transferred by the Government without a necessity for such improvements. Those sums, taken at a moderate rate of interest, have made the Municipal Fund better than it would otherwise have been by Rs. 6,327 per annum. The Corporation has laid out those sums in making permanent improvements, and it is but fair and

reasonable to suppose, that otherwise they would have had to raise money to effect those improvements and pay interest thereon; and that, by reason of those improvements, they have received increased rates and taxes.

"There is but little more I need trouble the Council with, and I apologise for the length at which I have dwelt on the subject. The principle at stake is of the greatest importance, in that the interests of Calcutta centre in its commerce. But for its situation at the bottom of the Gangetic valley, Calcutta would have no importance whatever among the cities of India. It is to this port that the principal wealth of this country, in the shape of produce, comes; and by the establishment of railways and river communications, goods, imported from foreign countries, find their readiest market and are most easily distributed.

"The Hon'ble Mr. Lee, in dealing with this point as a Port Commissioner, justly observed that this port was the most heavily taxed in the world, and that for his part, he would most gladly shift from the port to the municipality anything which could be so shifted. If we proceed further in the way of legislation by imposing taxation on commercial interests, we may arrive at a time when Calcutta will be but little better than a first class municipality. A gentleman, now deceased, who was on the Committee of the fire-brigade, objected to the system of general taxation on the ground that, the tax would fall on land which is not inflammable. I do not believe that Calcutta mud is one bit more inflammable than London clay. But what makes the mud so valuable? It is that theren, there are built houses in which the commerce of Calcutta is carried on. Remove that commerce. You may do so by improper legislation, as the Legislature of Great Britain demolished the ship-building trade, the linen trade and the woollen trade of Ireland. This Government may, by legislation in like manner, bring about a state of things in which there may be left Calcutta land and nought but Calcutta land, and it would not need the services of a fire-brigade.

"For these reasons, I contend first, that there are no grounds for imposing this tax on any special industries, such as jute and cotton, oil or other materials dealt with by this Bill, but also that there are good and abundant reasons why they should not be so dealt with. As far as I can find out, the rateable value of Calcutta and the Suburbs, which come within the provisions of the Bill, amounts to about 210 lakhs. The hon'ble member the other day produced a statement containing, as he himself admitted, some considerable inaccuracies. That statement was not before the Select Committee and could not be considered

there. Taking 210 lakhs as the basis of the rateable value of property, it is perfectly clear that a quarter per cent. rate, that is one-third of what is imposed in Bombay, would meet all the expenses of the fire-brigade. As to how that may be done, if the Motion which I am putting to the Council meet with its assent, is a matter for future determination. It may be, for the reasons adduced by the Hon'ble Mr. Cotton, that the incidence of this rate should fall more on occupiers than upon owners, upon the ground that, the property in houses is more likely to be destroyed than the house itself. The Council should not attempt the impossible, as the Hon'ble Mr. Cotton has attempted to do. The chorus of disapprobation which has arisen against the differential taxation is proof positive that, the hon'ble member has not been able to answer the demands of every one; and whether this Motion receive the assent of the Council or not, of one thing I am confident that, in a time to come, the principles for which I am now contending will meet with acceptance. They are the only sound principles which can be applied; they are simple in their application; they are equitable in their distribution; they adopt the broad principle that, in a community, all members must alike contribute towards the public good, though they may not enjoy equal advantages.

"For these reasons, I have the honour to move that the Motion which stands in my name be accepted."

The Hon'ble Mr. Lee said:—"The amendment which stands in the name of the Hon'ble Mr. Woodroffe is moved by him chiefly in the interests of commerce, and it is mainly in the true interests of commerce, which are identical with the best interests of this City, that I oppose the motion. The learned Advocate-General began by referring to the present Municipal Act II of 1888 of this Council, and read the whole of section 35 and the beginning of section 36. Section 35 states that 'all property vested in the Commissioners and all funds received or raised by the Commissioners in accordance with the provisions of this Act, shall be applicable to the purposes expressly authorised by this Act', and section 36 mentions what those purposes are and enumerates them all; whereas the learned Advocate-General stopped short at the first of those purposes, viz., 'the payment of the whole or any portion of the cost of the fire-brigade for the extinction of fires in Calcutta.'

"The learned Advocate-General did not read or refer to the section of real importance in this case, (section 37), which lays down what the duties of the

Commissioners are. These duties are there categorically stated, and the maintenance of a fire-brigade is not included among them. The Commissioners have to provide for the payment of interest on the municipal debt; to complete and extend throughout Calcutta drainage-works, and open out and improve bastis (expending for these purposes annually a sum of not less than two lakhs of rupees); to maintain a water-supply; to make adequate and suitable provision for the cleaning and conservancy of Calcutta, the maintenance and cleaning of drains and drainage-works, the construction and maintenance of public latrines and urinals, and a number of other sanitary objects which I need not enumerate: and finally, they have to devote a sum of three lakhs a year to the improvement of the newly-added area. In referring to the maintenance of a fire-brigade as being the first of the objects mentioned under section 36, it escaped the attention of the learned Advocate-General that this proviso represents merely a 'paper transaction.' The whole of the cost of the fire-brigade is paid to the Municipal Commissioners under another Act, and it was, therefore, necessary that in this Municipal Act an enabling clause should be added, so that the Commissioners might transfer their receipts under the Fire-brigade Act to the furtherance of the object for which those receipts are collected. The proposal, then, that is now moved is, in effect, to add another to the list of duties drawn up by this Council and enumerated by section 37. Now it is not open to me to question the legality of this course, since it has the approval of the learned Advocate-General; nor will I contend that, it is not in the present circumstances necessary. But it is, I think, most unfortunate that an amendment of section 37 of the Municipal Act should be brought forward in this way, because we are precluded from going into the details of the receipts and expenditure of the Municipal Commissioners. None of the sections of the Act, except, perhaps, those regarding the assessment of the taxes of Calcutta, received more careful consideration in this Council than those two sections—37 and 36—and that was so short a time as four years ago.

"The learned Advocate-General has observed that, it is incumbent on the community to provide for the cost of education. Now that, I think, is certainly an object for which the Commissioners might as fairly be allowed to contribute something as that they should be asked to pay the greater part of the cost of the fire-brigade. But what happened when that very proposal on the subject of education was before this Council? The Director of Public Instruction brought forward a motion that, the Commissioners of Calcutta should be empowered

to spend money on other than primary and technical education. He even did not ask, that the Commissioners of Calcutta should be compelled to spend a certain amount of money on other than primary and technical education. His speech was an extremely powerful one; he adduced arguments that seemed very hard to meet as to the desirability of the Commissioners contributing towards the cost of higher education. But how did the Council regard the matter, and how did they decide? I will ask the attention of the Council to the following words which Sir Henry Harrison delivered at the time. He said: 'I am bound to admit that, so far as the precedents and practice of Bombay and other municipalities are concerned, they are all against me.' * * * *

"My hon'ble friend referred to two arguments which might bear specially against his proposal. One is, that the proposal is against the weight of practice or precedent elsewhere. That argument cannot be met, because he proved successfully that both practice and precedent are against us. He also referred to the argument that, heavy expenditure is required for the sanitation of Calcutta and the Suburbs, and that is the only argument I feel bound to press upon the consideration of the Council. The first point to recollect is, that municipalities in India are essentially poor bodies; the Municipalities of Calcutta and Bombay are by far the richest in India, but yet their means cannot compare with the means at the disposal of civilized municipalities elsewhere. Calcutta has to levy its taxation almost entirely by rates on property; and the assessable value of property in Calcutta, does not exceed £1,200,000 a year. It is considerably less than one-twentieth of the rateable value of London, and the population of that city is only seven times larger. It is less than one-tenth of New York, with a population twice as large. It is less than one-fourth of Philadelphia, with a population only slightly larger: so that, the Calcutta Municipality cannot command anything like the funds of other large cities. But when we come to the question of expenditure, then we find that sanitation in Calcutta attains such importance, that so far from the expenditure being less, expenditure quite on the same scale as in English cities becomes obligatory. We are to have a large area in the most insanitary condition added immediately to the town. Nobody would say that, the town itself is in anything like a satisfactory sanitary condition. The difficulty in adding the suburban area has been simply and solely this, that no one could suggest the sources from which the funds should come. The Amalgamation Committee was distinctly of opinion that, about six lakhs ought to be added to the funds of the Municipality from some source. I myself formed a more

sanguine estimate and leaned to the opinion that, probably, four lakhs might suffice. I took a more sanguine estimate than any other member of the Committee. Can anyone in this Council doubt that, as soon as the suburban area is added to the town, we shall have the fullest possible use for all the funds at the disposal of the Municipality?

"And here I will interpolate that, the latest estimate I have received for the drainage of the suburban area, prepared under Mr. Baldwin Latham's advice by the Engineer of the Corporation, amounts to Rs. 1,70,69,570, which may or may not be capable of reduction; and we have spent quite lately 15 lakhs for giving a water-supply to the Suburbs, and other large sums on sanitary works. Sir Henry Harrison continued:—

'I admit that education is a legitimate subject of municipal expenditure, but I also maintain that it is a secondary object. It is not to be put on the same plane as the primary objects, such as the repair of roads, the removal of refuse, cleansing, sewering, supplying water, and in one general word, *sanitation*. If education is to supplant any of these objects, would it be right? I put it to the Council whether, if Rs. 50,000 be taken from the purposes of sanitation and given to education, it would not be a mistake. That is a point on which I am so satisfied that, I must press this view on the attention of the Council.'

"On that occasion the learned Advocate-General, Sir Charles Paul, observed that, he could not vote for the inclusion of assistance to higher education among the purposes on which municipal funds could be legitimately spent. He said:—

'If I could approach the subject of this discussion with the fact that, the municipal funds of this town were unencumbered and in a flourishing condition, and with the assurance that, the money which would be raised would be more than sufficient to supply all the wants of the town in respect of its sanitation, I would consider the present a proper time for discussing the question raised. Unless we are satisfied that the requirements of the Municipality can be met in this respect, we are not in a position to introduce another subject of expenditure. Therefore, I do not intend to consider or discuss the question whether, strictly speaking, municipal institutions are concerned in education or not; nor even the merits of the smaller proposition put forward by the Hon'ble Dr. Gooroo Das Banerjee, in reference to the larger measure advocated by the Hon'ble Sir Alfred Croft. I wish to impress upon the Council that, the time has not arrived for these amendments. If I were perfectly satisfied that the funds now in hand were not all required for sanitary purposes in particular parts of the town of Calcutta, then, as I said before, the question would arise. So long as the municipal funds are urgently required for sanitary and other purposes, I would protest against enlarging the area of the subject to which they might be applied. I would not enlarge it beyond the purposes stated in section 36 of the Bill.'

[*Mr. Lee.*]

"And how did the representatives of commerce vote? They and the Advocate-General voted against the proposal. There were in the minority, Sir Alfred Croft, Mr. Macaulay, Mr. Reynolds and His Honour the Lieutenant-Governor—four votes against nine. The commercial members, Mr. Moore and Mr. Irving, voted in the majority. Mr. Allen, the Advocate-General, Sir Henry Harrison, Dr. Gooroo Das Banerjee, Dr. Mahendra Lal Sircar, Babu Kali Nath Mitter and Maulvi Abdul Jubbar completing the nine.

"A matter of the supremest importance to the interests of this City is, the rigid maintenance of the principle that its sanitary funds should not be whittled away. It is said that, a special rate will be added to the rates that we have already in Calcutta on general property, and therefore there will be nothing taken from the receipts that now come in I reply, Sir, that in fact it will not be so. For the last four years Sir Henry Harrison, and each year subsequently I, as Chairman of the Corporation, have asked the Commissioners, when the budget has been before them, to consider whether, they ought not to raise the general tax above 9½ per cent. We knew that the water-rate, the lighting-rate and the sewage-rate were levied at their maxima. We were very reluctant to ask the Commissioners to raise the general tax, because the four property taxes, coming as they do to an aggregate of 19½ per cent. on the yearly value of property, fall very hardly on the masses. It is with the greatest difficulty that many persons in Calcutta can meet the tax-payers' call; so that when the Commissioners were appealed to raise the taxes, they found that they could not, and they did not. It was thought that, the objections to raising the taxes were greater than the benefits which could result. The taxes can only be raised to 22 per cent.: they are now, as I have said, at 19½ per cent. If the property taxes which are now so heavy in Calcutta be added to by a tax of even one-third per cent., it would simply mean that the collections will fall off, that the Commissioners will not be able to increase the general tax as soon as they otherwise might, or, it may be, that they will feel themselves compelled to even reduce the 9½ per cent. they are now levying to 9 per cent., or slightly over 9 per cent.

"The learned Advocate-General has referred to the case of Bombay and has asked why, if a three-fourth per cent. rate is levied in Bombay, a general rate should not be also raised in Calcutta? Now, Sir, I will take this opportunity of dealing the death-blow, if I can, to this pestilent comparison between Bombay

and Calcutta, in the matter of municipal expenditure. In Bombay, the Commissioners received last year town duties to the amount of Rs. 8,40,222, and liquor license fees and tobacco duty fees, amounting to Rs. 3,29,900, making a total of over Rs. 11,70,000 from sources not at all available to the Commissioners of Calcutta. It is impossible for any one to ask the Commissioners of Calcutta to follow the example of the Commissioners of Bombay in their expenditure on education, police, the fire-brigade, and in their liberal policy of exempting from taxation charitable institutions, and in various other similar directions, unless and until the Government puts itself in the same position towards the Corporation of Calcutta that the Government of Bombay assumes towards the Corporation of Bombay. If it should happen, that the Government of Bengal will make over to the Commissioners of Calcutta the canal dues and a considerable proportion of the license fees received from excise, then, or in like case, will it be possible for the Commissioners to incur any other expenses than those they have now to meet.

"As regards the difference between Calcutta and Bombay in this special matter of jute-licenses and the fire-brigade, I do not propose myself, Sir, to deal with that subject in detail. There are others present who can do so better and with more authority, but I will venture to call the attention of the Council to an extract from the last report on the Bombay fire-brigade. A list is there given of the fires where property to the value of Rs. 2,000 and upwards was destroyed: there were eight such cases, and only one of them was in a place where the material stored would have been taxable under our Fire-brigade Act, and there, property of the value of only Rs. 2,000 was destroyed. The largest fire was in a house where Rs. 20,000 worth of property was destroyed; the next largest was of Rs. 13,500, and the next of Rs. 9,000 worth of property in houses; and actually, the very lowest in the list was in the warehouse where some loose cotton was destroyed. I would ask you to compare that with the list in the last report that I have seen published in the Calcutta Gazette on the working of the Calcutta Fire-brigade, as the learned Advocate-General has referred to recent figures to show that, there have been of late few fires in jute houses in and near Calcutta. The supplement to the Calcutta Gazette of the 21st of September last, contains a list of the fires during the year 1891-92 that occurred in Howrah. First, there is the fire in the Sibpur Jute Mills, where property to the value of Rs. 3,35,000 was destroyed. In all the other fires taken together, property to the extent of Rs. 760 was destroyed, such as here one tiled hut, there one stack of straw, there

one boat load of straw, and the like. That is the list for Howrah only. I have said that I do not propose on this occasion, at all events, to go into the history of the fire-brigade, or the demands which the jute industry has made and still continues to make on the fire-brigade establishment; but that the jute industry should still continue to bear a considerable proportion of the cost of the brigade there can be no doubt, and that will be established by figures which will be given by my hon'ble friend the Commissioner of Police.

"As I have been reported to have said what I never did say, and have been so reported, not only once but twice, I endeavoured to correct the misapprehension in the Select Committee, but it escaped the attention of the learned Advocate-General or he would not have repeated the mistake to-day. I never used the words '90 per cent. of the property so destroyed by fire during the past four years (1886 to 1889) belonged to the jute and cotton interests.' I quite understand how the learned Advocate-General was misled, because those words appear in a letter from the Chamber of Commerce to the Government of Bengal in inverted commas. It says: 'Mr. Lee, Chairman of the Municipality, has committed himself in his letter No. 90 (J), dated the 18th of August, 1890, to the statement that, 90 per cent. of the property destroyed by fire during the past four years (1886 to 1889) belonged to the jute and cotton interests.' That would naturally lead any one to suppose that, I used those words. But what I wrote was this:—

'I append a statement of property destroyed by fire in the course of the last four years in the Town, the Suburbs and Howrah, which I have extracted from the Annual Administration Reports of the Commissioner of Police. It shows that, Rs. 16,35,075 worth of property was so destroyed; and that out of this, no less than Rs. 14,45,100 was property of the jute and cotton interests. The ratio is nearly 90 per cent. No stronger confirmation could be needed of the fact that, this proportion, which holds for the last four years, is not higher than the proportion which would be found to hold through a prolonged period, than is afforded by the insurance rates paid for different classes of goods and property. I am informed that the rate for insuring jute presses is, Rs. 3½ per cent., and for jute warehouses, Rs. 2 per cent.; while the rates for ordinary masonry house property and non-hazardous goods stored therein is, 1½ annas per cent. The proportion of Rs. 2-12 to 1½ annas is, 88 to 3.'

"That was in the form of an argument. I appended a list of the fires that had occurred with full details. The reason that there afterwards appeared a misconception in the matter was due to the fact that, the Commissioner of Police in making out his comparative list excluded, from his list of fires that had occurred of property belonging to the jute and cotton industries, two large fires,

in which a certain amount of jute gunny-bags only was destroyed with other property. One of those two fires burned Rs. 3,00,000 of property in the Port Commissioners' warehouse, containing gunny-bags and piece-goods. Similarly, regarding another item of Rs. 10,000 worth of gunny-bags and tobacco destroyed by fire. These two being transferred out of the list of fires debitable to the jute and cotton interests, the percentage would be, of course, lowered; for it would make a total difference in the calculation, of twice Rs. 3,10,000, but my view is, that the only available method of taxing the jute interests at all is through the warehouses. We did try in Select Committee to find some other way of spreading the incidence of taxation on the industry, but found none possible. Finally, I would observe that even the calculation, as made by the Chamber of Commerce, showed that Rs. 8,60,100 worth of property, belonging to the jute industry, was destroyed in those four years as compared with other property worth Rs. 7,64,975.

"The speech of the hon'ble mover of the amendment divides itself into two parts—one to show that some alteration of the existing law is necessary, and the other to show that the alteration should be by way of imposing a general tax on property in Calcutta. As regards the first, I do not think it is necessary at this stage to enter into the details which will have to be considered when we come to decide how the taxation should be distributed. As regards the latter contention, I think that I have shown that, the Corporation of Calcutta is not in a position to accept the whole responsibility or any great portion of it, and that it would be unwise and wrong to try to put it on the general funds of the municipalities."

The Hon'ble MR. PLAYFAIR said:—"Twenty years ago, the hon'ble member who then represented the mercantile community in this Council took exception to the original Fire-brigade Bill, as imposing 'a tax on persons for the benefit of the community'; and the Merchants of Calcutta, upholding this view, have ever since expostulated against such a system of taxation, contending that, as the whole community of Calcutta enjoys the protection of the brigade the cost should be contributed by all, through a municipal assessment. And while the Merchants of Calcutta were pressing their views upon the Government of Bengal, it has transpired that the Merchants of London, through the Association of Fire Insurance Companies,

gave expression to similar views to the Metropolitan Board of Works, under date the 14th of January, 1886, and in these words:—

'The protection of life and property from fire is as much a public duty as are protection from murder and robbery, sanitary arrangements, maintenance of roads, &c., and, as such, it should in the interests of the community at large, be provided at the public expense. In cities and large towns, the extinction of fires is the public duty of the municipal or governing body thereof, who are bound to make the necessary provision for the same and to defray the cost out of the rates which they are authorised to levy for the purpose. The principle has been recognized by the Legislature, which not only on passing the Town Police Clauses Act, 1847, but in every other general public Act, authorising the maintenance out of rates to be levied thereunder of firemen, fire-engines and other appliances and requisites for extinguishing fires, has not authorised any charge to be made for the use thereof, in the case of fires occurring within the boundaries of any city or town to which such Act applies.'

"And, Sir, this representation is continued as follows:—

'Taxation of a commercial interest for matters affecting the public good and public convenience, is opposed to all sound principles of political economy. It is never suggested that, Life Insurance Offices should contribute towards sanitary improvements, or Marine Insurance Offices to the cost of harbours of refuge, lighthouses, &c.; and yet they are no less interested in such works than are Fire Insurance Offices in arrangements for fire extinction.'

"The fire-brigade was established twenty years ago under Act II of 1872, on account of the then dreaded frequency of fires in jute godowns scattered throughout a wealthy part of the native quarter. Many of these jute press-houses and godowns were then situated in and around Clive Street and Radha Bazar, within gunshot of this Council Chamber; and owing to the lax manner in which jute was stored in inferior godowns and stacked in open yards, the trade was considered a source of danger to the community.

"The tax for the maintenance of the fire-brigade was, in consequence, mainly levied upon the jute trade. The trade has, however, remodelled itself, both as regards situation and working. Jute is now pressed for export in hydraulic press-houses which are situated, for the most part, beyond the town of Calcutta. There is no attraction to bring these back to within the limits of the town, and the Justices who grant the licenses for warehouses will doubtless be careful to prevent their return. The press-house buildings, as they now exist, are of substantial masonry construction, mostly fireproof, and are equipped so fully with fire-extinguishing appliances and a fire-brigade staff of their own that, it has become a matter of indifference to them whether or not a public fire-brigade exists. The companies are encouraged to maintain this high state of efficiency

by a liberal reduction or discount allowed in the rate of insurance, amounting to 15 per cent. according to the highest standard of efficiency, and to 10 per cent. according to a lower standard of efficiency.

"It is found that six of the largest hydraulic presses; out of a total of twenty-three, have become entitled to the full reduction of 15 per cent., and that the rest, with exception of 3, claim a reduction of 10 per cent. Eight of the press-houses are owned by native merchants. The conditions that carry these discounts are both practical and complete in themselves. To obtain a rebate of 15 per cent. of the premium, the establishment, according to the Insurance Schedule, must include—'A steam fire-engine, a manual fire-engine, boiler pumping-engine, fire-plugs, buckets, cans, extincteurs with, in each case, water (available from public or other sources), and with hose sufficient to command the premises insured, and with a trained fire-brigade consisting of not less than 8 men.' The 10 per cent. allowance contemplates less efficient appliances, and stipulates for—'A steam fire-engine or stationary fire-engine worked by steam or water, or fire-pump worked by steam or water, or fire-plugs with, in each case, water (available from public or other sources), and with hose sufficient to command the premises insured.' These arrangements have been promoted in the interests of owners of press-houses and Insurance Companies, by the experience that, unless a fire in a peel of jute is discovered and extinguished when it commences, it burns itself out, and no public fire-brigade, however alert and efficient, is of the least use. Such being the case, owners of well-built, efficiently-equipped and isolated press-houses naturally not only demur, but strongly protest against being taxed for the maintenance of a fire-brigade; the head-quarters of which is situated one-and-a-half miles distant from them, and which has been chiefly of use in dealing with conflagrations in bastis and marts.

"The native jute mart is confined to Hatkhollah and to Durmahatta, situated on the river bank. The jute is, for the most part, stored in brick buildings. Fires are infrequent, and the owners do not insure. No instance has been reported of a conflagration having extended to neighbouring property from a fire breaking out in premises licensed under the Act. On the other hand, the whole community sleeps secure, knowing that, in the event of fire, the brigade is at call. Houses and dwellings between Chowringhee and Intally, between the Strand and Sealdah, schools, colleges, theatres, Government offices, godowns, stores, shops, are all protected by the brigade; and such being the case, I contend that the

owners or occupiers are called upon to contribute generally to the cost. If the owners do not wish to do this, the brigade may be abolished. It is for the public to choose whether, they will control fires or pay higher rates of insurance premium.

"In no other country, and in no other city of this empire, is a particular industry separately assessed for the support of a fire-brigade. In Bombay, Madras and Rangoon, the cost is defrayed by general taxation. In Bombay, cotton is not separately taxed, as it is with jute in Calcutta. Calcutta, therefore, stands out as the exception to a general common-sense and reasonable rule. The European and Native jute and cotton merchants naturally object to be so penalised. The practice, too, in Calcutta, is certainly not supported or justified by facts as to the occurrence of fires.

"The learned Advocate-General has pointed out that, during the past seven years only 7 per cent., that is to say, only 17 out of 247 fires, occurred in warehouses licensed under Act IV of 1883. The reports for the two years ending April, 1892, show that, no fires occurred in jute warehouses in that period. And it may be added that, no fires in jute warehouses have occurred during the ten months of the current year. The owners and occupiers of licensed warehouses, therefore, protest that the history of fires in Calcutta in no way proves them liable to be assessed for the cost of a fire-brigade, when the maintenance of that brigade is so plainly for the benefit of the whole community. The other fires include what may well be termed, the devastating conflagrations in bastis, when hundreds of houses have been destroyed, fires in wood and hay stores at the Port Commissioners' jetties, and in Government stores, including an important loss of property which lately occurred in the Government Clothing Department at Alipore, and, I believe, a fire once occurred in Government House.

"It is proposed by the present Bill that the rate of taxation on hazardous trades, for the most part represented by the jute and cotton industries, should continue at 10 per cent. of the municipal assessment, with a maximum fee of Rs. 750 for any one license, and provided that, the total trade contributions shall not exceed 50 per cent. of the annual cost of the brigade. In effect, this points to taxation to the extent of 4 per cent. to 5 per cent. of the municipal assessment, or even more; whereas, if spread over the community, the incidence would not exceed a quarter per cent. In Bombay, the tax does not exceed three-fourth per cent. and includes the provision of interest on a special fire-brigade loan. In

other words, a godown to hold cotton assessed by the Municipality at Rs. 8,000 would in Bombay pay a fire-brigade tax of Rs. 60, and in Calcutta, under the proposed Bill, will pay Rs. 750. If the cost of the brigade is spread over the community, this godown would pay about Rs. 20. Again, the Bill will operate most unfairly upon the small trader in comparison with the large. An Hydraulic Press Company at Cossipore, with an assessed valuation of Rs. 42,000, will be limited to a payment of Rs. 750, or about one and three-fourth per cent.; while a press-house in Calcutta, with a municipal assessment of Rs. 12,000, will also pay Rs. 750, or six and a quarter per cent.: and Babu Gooroogobind Shaw having godowns close by, assessed by the Municipality at Rs. 9,000, will also pay Rs. 750, or eight and one-third per cent.

"The Chamber of Commerce, at the suggestion of the Fire-brigade Committee, examined the subject very closely, with a view to arrive, if possible, at a differential rate that might be fair to all, and after careful study have had to abandon the attempt. I do not consider the efforts of the Select Committee have been more successful.

"The pressing trade has not always been a profitable industry. It continued unprofitable, until a confederacy in the working of the Hydraulic Press Companies was inaugurated. This system of working is still of necessity upheld; but it yet implies that, while the Companies have a combined capacity to screw 44 lakhs of bales of jute in a season, only about 16 lakhs of bales are screwed, because exporters find it more advantageous to screw elsewhere: and the port of Chittagong reaps the benefit. This is a matter of serious consideration to those interested in the port of Calcutta, and is of itself a warning, that no unnecessary impost should be placed upon the trade of the port. The castor-oil industry, too, owing to the keen competition there now is with American mineral oil for lubricating purposes, is in no way fit to bear further special taxation, as is suggested by the Bill.

"The late Sir Henry Harrison considered that, the interest of the mercantile community of the town was of the first importance, and Mr. Harry Lee, Port Commissioner, lately delivered himself of the following clear opinion which, I hope, will be echoed in this Council:—

'Nothing can be more certain than that the prosperity of the town is involved in the prosperity of the port, and that this is already an expensive port. These truths are so obvious that, we and the Municipal Commissioners and the Local Government must be alike alive to them; and any burdens that the Municipal Commissioners or the Local Government

can, with fairness, remove from the shoulders of the port to the public, must undoubtedly be shifted.'

"There is still a further reason in support of the tax becoming a general rate. The history of the Calcutta Fire-brigade is unique. The jute and cotton industries have not only paid for the up-keep of the fire-brigade; they have not only paid for establishments to collect the funds and towards pension funds, but they have also paid for the cost of establishing the brigade; and, in addition, have been taxed to such an extent as to yield a very large surplus amounting to over a lakh and a quarter of rupees. This sum has neither been used to perfect the brigade nor to provide pension and depreciation funds, but it has been appropriated by the Municipality to widen streets and enlarge the lock-hospital, I may add, to the utter astonishment of the whole mercantile community. If an account were now taken between the Fire-brigade Fund and the Municipality, these sums would, at 6 per cent. interest, represent a Capital of Rs. 2,40,000 due by the Municipality. I take this rate on the authority of the hon'ble member, the Chairman of the Corporation, who elsewhere has remarked:—

'In fixing the rate of assessment for the Municipal Consolidation Act, it was considered, after the fullest argument, that no sane person would invest money in property in Calcutta, except in the hopes of securing considerably over 5 per cent. on his Capital. Allowance was made for occasional disappointments, and an all-round rate of 5 per cent. was deemed fair.'

"If, therefore, the Municipality has been presented with these contributions and with a ready-made fire-brigade also, it will have obtained a gift from a single branch of trade that is without precedent. In Bombay, a loan of 5 lakhs of rupees was raised by the Municipality to establish a brigade; and in London, the Metropolitan Board of Works paid £30,000 sterling to the Fire Insurance Association when taking over their brigade. It is clear that, the jute and cotton industries have already done a very great deal for the general public good; and the commercial community consider that the time has come when, in common justice, they should be afforded the relief prayed for, and the justice of such has been admitted by Government since 1878, and declared, moreover, in the last Municipal Act for Calcutta passed by this Council, Act II of 1888. The mercantile community cannot be expected to rest satisfied until this is granted.

"In conclusion, I would venture to say that, the Bengal Chamber of Commerce will never approach the Government of Bengal as a suppliant for

legislative favours on behalf of any particular industry ; but it will come, asking that just remedies may be applied to redress a grievance and remove a wrong which, in the present instance, the Chamber does."

The Hon'ble MR. COTTON said:—"I only wish to trouble the Council with a very few words in reply to some of the arguments brought forward by the mover of this proposal and by the hon'ble member who has just sat down. At the last meeting of this Council, I referred to the principle maintained by the Hon'ble Mr. Woodroffe that, taxation in this matter of the fire-brigade should be evenly spread among all branches of the community. There is much to be said in favour of that principle, and the learned Advocate-General has supported it with conspicuous ability. But he certainly appears to me to have failed to recognise the peculiar circumstances of this metropolis. He has described Calcutta as an 'extraordinary' city. This is the language, as I understand it, of sarcasm; but if he had as thorough a knowledge of the town as I have, he would have used the word seriously. The position of Calcutta is not comparable to that of any large city in Europe. If there were no other difference, it would be this, that Calcutta is situated in the tropics or very near the border of the tropics. In a cold country fires break out repeatedly in residential houses and in shops, and they are due mainly to accidents occurring from the fires which are daily lighted in those houses. Fires, at certain seasons of the year, are burned in every room of each house. They are also due to the inflammable character of the houses themselves; to the large amount of wood used in the furniture and in the wooden flooring.

"These are the circumstances which establish a radical distinction between European capitals and this city; and if there were no other reasons which justify a distinction being drawn, in the source for the realization of funds for the maintenance of a fire-brigade, this one would be sufficient. The fire-brigade maintained in European cities would have to be maintained in all of them, whether there were large commercial warehouses in those cities or not. But, as I observed at the last meeting of the Council, it can admit of no dispute that, were it not for the existence of commercial warehouses, principally jute warehouses, in Calcutta, the brigade of this city would never have been maintained at its existing strength. In London, the majority of fires that break out are in residential houses, and the greater portion of the time of the fire-brigade is taken up in extinguishing those fires. I shall be succeeded to-day by the Hon'ble Mr. Lambert,

who will be able to state to you, with more authority than I can, the proportion of time taken up by the present fire-brigade in extinguishing fires in jute warehouses, and in other dwellings including bastis. He will tell you that, there is no comparison between the amount of work done by the fire-brigade for warehouses and the amount done in bastis and private residences. And this is what I meant when I said that, the majority of important fires occurred in warehouses. By the word 'important', I mean important in the point of view of the fire-brigade. If a fire takes the brigade a week to extinguish, it is immeasurably more important than a fire which takes one hour to extinguish. Therefore it is that I said that, the majority of important fires occurred in warehouses, and that it was mainly on account of these warehouses, that the brigade had to be maintained at its present strength.

"Now, I shall recur to the observations of the Hon'ble Mr. Playfair. He observed, and observed justly, that great improvements have been effected in warehouses where jute is stored—improvements which no doubt greatly reduce the risk of fire. But notwithstanding these improvements, Sir, it is still the case, that jute warehouses pay a rate of insurance far and away above the rate paid by other buildings in this city. I attach great weight to this consideration. If it is a fact, and I am credibly assured that it is so, it is in itself sufficient to justify the special treatment of these warehouses by this Council. I hold in my hand a statement of the rates paid to one of the largest Fire Insurance Companies in this city, and it is there stated that, jute presses and jute warehouses pay a premium of three and a half per cent. That, in comparison with rates paid by other buildings, is absolutely a penal rate. Were it not that the jute contained in these buildings is an eminently inflammable material; were it not that there is great risk of this jute taking fire, such a high rate would certainly not be levied; and so long as the rate levied on jute warehouses is out of all proportion higher than the rates of insurance levied on other buildings in this city, so long will it be justifiable to levy a special fee from these warehouses, on account of the maintenance of the fire-brigade. This is a further reason why, in the opinion of the majority of the Select Committee, it was considered fair and reasonable that jute should still continue to pay special rates for this purpose.

"I entirely agree that it is exceedingly unfair that, the jute industry should continue to pay the whole cost of the fire-brigade. I recognise that the general community is undoubtedly benefited by the maintenance of the brigade and that they should pay some share of the cost; and this principle we have

endeavoured to give effect to in the Bill before you. But it was also recognised by the majority of the Select Committee that, considering the inflammable nature of jute, it was reasonable that it should still continue to pay a large proportion of the cost. The learned Advocate-General observed that, the differential rates of tax contemplated by the Bill must be bad because they were condemned on all sides. Now, Sir, it is my experience that every measure of taxation will be opposed by people who are called upon to pay the tax, and I would indeed have been surprised if the Municipality, represented in this Council by my hon'ble friend the Chairman of the Corporation, and other hon'ble members who are also members of the Corporation, should have accepted with equanimity those additional charges upon the public which the Bill contemplates. I should have been surprised if the hon'ble gentleman, who represents the Chamber of Commerce, should not have protested on behalf of the jute interest. It is natural also that, those who represent the other particular interests affected should protest against any new form of taxation imposed upon them. But when I observe that the Bill is opposed to the bitter end on both sides, that on one side, it is argued that the whole rate should continue to be borne by the jute interest; and that on the other hand, my hon'ble friend the Advocate-General says: 'No, there should be no special rate on any commodity or any interest; let there be an equal rate on all alike'-when I see these extreme views taken up, I am disposed to think that we have adopted the only fair and equitable course, which I have been told more than once is impossible, when we have tried, as we have done, to steer a middle channel, avoiding either extreme, and to impose a differential rate, in proportion to the inflammability of the commodities affected and the degree of protection afforded and benefit derived."

The Hon'ble MR. LAMBERT said:—"I desire to say briefly, why I am unable to support the amendment brought forward by the learned Advocate-General. If the question now before the Council was the establishment in Calcutta of a fire-brigade for the first time, no doubt the case made out by the learned Advocate-General would be a very strong one; but the matter now under consideration is not, whether a fire-brigade is to be maintained but who is to maintain it; whether, in fact, any change is to be made. Therefore, before those principles which were accepted twenty years ago regarding the impost of taxation are set aside, we should not lose sight of the causes which rendered it necessary to establish and maintain an efficient fire-brigade. Up to 1872, Calcutta had no brigade worthy of the name; but in 1871, serious fires had broken out, endangering the safety

which have not already been duly considered and rejected. It will be within the recollection of hon'ble members that, throughout the discussions which have taken place in connection with the raising of funds for the up-keep of the fire-brigade, this question of an all-round rate to be levied on the general tax-payer by the municipalities has from time to time been advanced; has often to be put on one side as wholly unsuited to a place like Calcutta, where the risk of fire in the majority of buildings is so remote, and where the danger from warehouses for the storage of goods of a highly inflammable nature and in bastis presents the opposite extreme. Owing to the continued representations made to Government by those concerned, a Resolution, dated the 18th of February, 1891, was issued by this Government, appointing a most influential and representative Committee for the consideration of the question in all its bearings.

"This Committee held its first meeting on the 7th of April, 1891, at which those present were unanimous in the opinion that, it was manifestly unfair that any one industry should be saddled with the entire cost, as it was impossible to deny that the general public derived much benefit from the brigade. At this meeting it was admitted that, the jute industry should be taxed to the extent of one-half of the total cost of the brigade. At the second meeting, held on the 14th of the same month and year, this question of a general rate was freely discussed, but the majority of those present decided against its imposition; and at each of the five meetings held by this Committee, the question was brought forward but was as often vetoed, the Committee being of opinion that it was not desirable to place all buildings on an equal footing, and finally recommended that the cost should be met by several industries of a more or less hazardous nature, and partly by the general tax-payer. These lines have been followed in the Bill as amended.

"In like manner, when the Bill (as originally drafted) was referred to the Select Committee of this Council, this point of a general rate was discussed at great length, but the majority were against its adoption, accepting the principles set forth by the Committee of 1891. It may, therefore, be accepted that, the consensus of opinion of those most competent to judge is, that a differential rate is more suited to Calcutta than a general one. The Bill, as now amended, recognizes the claim to relief put forward on behalf of the jute industry; it provides that, goods of a less hazardous class shall pay a lighter rate than that imposed on highly inflammable goods; that bastis shall contribute a half per cent. rate, and it affirms the principle that, the general public should, in a still lesser degree,

(*i.e.*, one eighth per cent. on the value of property as assessed for municipal taxation), help in maintaining an institution, having for its objects the protection of life and property from fire.

"It, therefore, seems to me, Sir, that the recommendations made in the Bill must meet with the approval of the majority of the members of this Council, as being perfectly equitable in all the provisions referring to the raising of funds to meet the cost of the fire-brigade."

The Hon'ble MR. RISLEY said:—"I wish to say a very few words in support of the arguments in favour of the general principle advocated by the learned Advocate-General. He has laid stress very justly on the impolicy of imposing a special tax on a special branch of industry. Whilst his speech was going on, I was reminded of the analogy between this and the special rates charged on special crops of land. I venture to say that, if we were now discussing a Rent Bill, no words would be too bad, which for the rapacious landlord who should impose specially high rates of assessments on specially valuable crops. This case is just the same. It deals with an industry which is specially valuable and profitable—an industry which has brought prosperity to Calcutta by drawing trade to it—and you set to work and discourage the trade generally, by imposing a special property tax on those who are engaged in the industry. Under similar circumstances, a Continental Government would give the trade a bounty, as France and Prussia actually do in the case of beetroot sugar.

"Moreover, it is difficult to say, when you come to consider it, where this principle is to stop. It admits of almost unlimited application. You may tax horses and carriages and apply the proceeds to keeping up the roads, you may tax unwholesome trades for sanitation, and the dealers in indigestible articles of food for the support of the hospitals. Certainly, if you carry the principle to its logical consequence, so far from taxing the jute trade for the support of a lock-hospital, you would be bound to impose a poll-tax on the *demi-monde* of Calcutta. In that case, at any rate, there would be no question about the persons taxed getting their money's worth, which is more than can be said in the case of the jute warehouses. These, indeed, derive comparatively little benefit from the tax, because, as I understand, jute warehouses and presses have been much improved in their construction, and any fire which may break out will be pretty well circumscribed, as each building

of the town, and these fires were caused by the laxity with which the jute trade was conducted. Therefore, several bodies—the Chamber of Commerce at their head—pressed on the Government the necessity of bringing the jute trade under better supervision and of organising an efficient brigade; and so in 1872, a fire-brigade was formed—not so large or costly as that now maintained, but that was the beginning of it. At first, steam fire-engines were stationed only at the head police office. Then the jute industry spread to the Suburbs of Chitpore and Cossipore, and the cry was, that better protection against fire was needed there. So in 1887, an out-station was established at Chitpore at an outlay of about Rs. 40,000. Meanwhile the Act had included Howrah, and it was soon urged on the Commissioner of Police that the fire-brigade arrangements, which had been sufficient for the general community at Howrah, were altogether insufficient for the protection of the jute industry there. So in 1889 at Howrah, too, an out-station was established at a further cost of about Rs. 40,000. It will be noticed, that these large outlays have been incurred in recent years. Now it seems that having got its fire-brigade, the jute industry want some one else to maintain it.

"It has indeed been suggested that, at the large mills and presses, the appliances for extinguishing fires are now so complete that the fire-brigade is not wanted. But this statement has yet to find general acceptance. So far as I am aware, at only one press is the equipment on such a scale that a large fire could be dealt with. At several others, something has been done to provide fire-appliances, but more, I think, to satisfy the insurance offices than to be prepared to extinguish a serious fire. Certainly the owners of the smaller warehouses, numbering about 160, have no fire-appliances at all. My experience is, that when a fire breaks out in a jute press, all who are interested—owners, managers and fire insurance agents—are on the look-out for the arrival of the brigade; and generally those interested in the fire, detain the brigade on the spot long after in the opinion of those responsible for the working of the brigade think that it could be removed without risk. Certainly, these jute fires tax the resources of the brigade more severely than any other fires. How great is the strain, is shown by the average period at which the brigade is employed at such fires. The records for 1888 to 1892 show this. During this period, 15 fires occurred in licensed buildings; and the average duration of the employment of the brigade at each fire, was a little over three days. During this same period, 141 large fires occurred in other places, and among these was the fire at Baliaghata,

which lasted seven days. Yet the average period of attendance at these 141 fires was only five hours—five hours against three days!

"Taking into consideration, therefore, the fact that, in Calcutta the strength and cost of the fire-brigade has been fixed chiefly to meet requirements arising from the jute trade, I see no reason why that industry should now be relieved entirely of its liability to maintain the brigade. But there are good reasons why the burden should be lightened. Among these reasons, I may name two: one, that the conditions under which the trade is now carried on are widely different from those which existed twenty years ago, and that the risk of a fire spreading to contiguous buildings is thereby very greatly diminished—I cannot say with the learned Advocate-General, entirely removed, for it is not the case that fires in press houses never spread outside of the press premises. I can quote one serious instance. On the 20th of December, 1888, the Canal Jute Press caught fire, and the damage sustained amounted to Rs. 4,00,000. Sparks flew from this Press and ignited a large flat lying on the river laden with 17,890 maunds of jute, valued at Rs. 1,19,490, and the whole of this cargo was destroyed. My second reason is, that experience has shown that the general community benefits largely by the maintenance of the fire-brigade, which is now wholly supported by the jute industry. During the last ten years, the brigade has attended at only 25 fires in licensed warehouses against 219 fires in bastis, and 107 other fires. Therefore the jute industry is, in my opinion, entitled to very substantial relief. What that relief should be, will be best considered when the clauses of the Bill come under discussion."

The Hon'ble MR. WALLIS said:—"It would scarcely have been necessary for me to have addressed the Council on this occasion but for a remark which had fallen from the learned Advocate-General in the course of his speech to the effect that, the Calcutta Trades Association had expressed its dissent to some of the provisions of the Bill, although in accord with its general principles. As Master of that Association, I deem it expedient to point out that, I am yet to learn in what way the Committee of the Association dissent from the provisions of the Bill. The Bill, as amended, has been considered by the Committee, and they are in complete accord with the principles of taxation recommended. The suggestions put forward by the learned Advocate-General and supported by the Hon'ble Mr. Playfair are not such as are likely to commend themselves to the approval of this Council, as they fail to adduce any grounds for the imposition of a general rate,

is surrounded by a high wall, and most of them are provided with fire and manual engines and extincteurs for the extinguishing of fire, so that the fire can hardly spread further.

"There is, moreover, another reason why persons connected with the jute trade do not benefit by the maintenance of a fire-brigade, because it is absolutely out of the question for the fire-brigade to think of putting out a fire which has once broken out in a jute warehouse; and, further, the general public are probably less injured by jute fires than by fires in other cases. The premises are carefully guarded, and the fire has a less tendency to damage the property of the general public than a fire which occurs in a basti. On the other hand, a fire occurring in a basti has a greater tendency to spread.

"Then there is the question, of the value of the property destroyed with reference to the proportion of the cost of maintaining the brigade. We ought to look to the interest of the general public. The general public do not know what may be the value of the property destroyed. What concerns them is, whether a fire is liable to spread. In the case of fires in jute warehouses, we are told that the fire is not liable to spread. In the case of a basti fire, it spreads so rapidly that the whole basti is on fire before the brigade can arrive at the spot.

"Then there is a minor point, as to the advantage of uniformity in legislation. If we are to legislate on any particular subject, it is no doubt a good thing to be guided by the experience of the rest of the world. We have had reference made to English experience, and to the practice at Bombay and Madras and Rangoon. I have also looked up the question and find, as far as I have been able to ascertain from the authorities to which I have had access, that the obligation of maintaining a fire-brigade is regarded on the Continents of Europe as strictly a municipal obligation. Endeavour is made to restrict fires as much as possible, by having very strict building regulations expressly with the object of preventing the occurrence of fires, and I know that houses on the Continent are very much more carefully built, so as to prevent the occurrence of fires, than are houses in England."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"I should have had no hesitation in supporting the recommendation of the Select Committee if I found that, it was proposed to distribute the incidence of taxation on account of the fire-brigade on all those who derive benefit directly from it; but, as I find that it

proposes to levy a rate not only on basti lands but on pucka houses and other lands, I do not agree with the Committee. The Bill, as amended by the Select Committee, enables the Commissioners to levy a rate of eight annas per cent. on all basti lands, and a rate not exceeding two annas per cent. on all pucka houses and other lands. The amendment of the learned Advocate-General, if carried, will have the effect of reducing the rate from eight annas to four annas per cent. on basti lands, and of increasing the two annas rate on houses and lands to four annas. We all know that bastis are occupied by poor people, and any measure which will tend to lighten the burden of these people, should have our support. I entertain a very strong view, that pucka houses in this City ought not to bear any share of the cost of maintaining the fire-brigade; and as I find that the learned Advocate General's proposal of this all-round tax of four annas per cent. on occupiers of premises will lessen the burden on bastis, I think I cannot do better than support his amendment."

The Hon'ble MR. WOODROFFE in reply said:—"Sir, there has been, if I may be permitted to say so, a not unprofitable discussion on this Motion of mine; and it is admitted that, if this matter were now before the Council for the first time, the case which I have attempted to lay before the Council is one which could not be satisfactorily met, that it is, in other words, a strong case. But it is said, and this is the only answer that has been attempted, that this is not now before the Council for the first time, and that the industries concerned ought to be satisfied with the partial relief secured to them by the Bill as it left the Select Committee. But I say with great submission that the whole question, whether these commercial interests should be subjected to taxation for the maintenance of the fire-brigade, is before the Council. It is because the present state of things is undesirable, because the injustice of it is apparent, that legislation has been recommended and held to be absolutely necessary.

"It is said that, the Committee of 1891 favoured a proposition adverse to that for which I am contending. But it is to be observed from the proceedings of that Committee that, the Chamber of Commerce was not addressed till the fundamental lines had been previously settled. Sir Henry Harrison stated so in express terms. When the Chamber and other bodies came before that Committee, they were met, so to speak, with a foregone conclusion on this point. But, notwithstanding that, the general principle was over and over again asserted after the door had been practically closed to its admission. In the

first meeting, at which Mr. Malcolm, the representative of the Chamber of Commerce, was present, he contended 'that jute warehouses should be placed on the same footing as regards taxation for the maintenance of the fire-brigade as residential houses, mills and depôts for goods other than jute', and quoted figures to show that, the value of the property (not jute) destroyed by conflagrations was nearly equal to the value of the jute which had been burned. He returned to the charge again at a later meeting and said that 'he could only repeat what he urged on the last occasion, namely, that to do equal justice to all and to conform to the practice of other countries, there should be equal taxation on all classes for the support of the fire-brigade', and that the proposal 'to reduce the fees on jute warehouses by 50 per cent. was only a tardy act of justice to jute industries; but it was not, in the opinion of the Chamber, that entire measure of justice which they claim, which consists in jute owners being subjected to equal taxation with others whose goods are likewise protected by the fire-brigade.'

"It was in consequence of that position of affairs, that in a letter of this Government to the Government of India I find it stated that, the recommendations which the Committee arrived at were arrived at mainly by a sort of compromise and did not profess to be passed on any definite principle whatever. It was, in fact, the result of that species of drift which the late Sir Henry Harrison; to whose memory so just a tribute was paid by the Hon'ble Mr. Cotton the other day, pointed out, was not due to any deliberate policy on the part of the Government. For these reasons, I venture to submit that, the conclusions to which the Fire-brigade Committee arrived are not of much weight in this matter. It is true they did suggest that, the jute industry should be relieved to the extent of 50 per cent., but that suggestion was made tentatively. It was sought to ascertain if it was possible, whilst not ignoring that there existed great difficulty in carrying out that principle. It is said that, the Bill as it has left the Select Committee provides a final solution of the difficulty. But I venture to think that, in the attempted solution proposed by the majority of the Committee, so many serious difficulties exist that the solution can only be described, as Sir George Jessel once said of a case before him: 'It reminds me of nothing so much as a cullender, it is so full of holes.'

"It was suggested by the Hon'ble Mr. Cotton that, Calcutta is not so *extraordinary* a place as I spoke of it in the language of sarcasm, and that its

position on the borders of the tropics, renders it incomparable to other large cities Bombay is not so far from the equator as Calcutta. Rangoon is at about the same distance, and Madras is nearer the equator than Calcutta. Further, it is said that, but for the jute industry, the fire-brigade would not have been constituted in its present state of efficiency. That may be. But for the growth of inhabitants in this town, it would still perhaps be permeated with those large open sewers which existed some twenty years ago. The frightful mortality from cholera necessarily led to increased taxation for sanitary purposes. Could it be suggested that, an additional tax should be imposed upon persons coming into Calcutta, so as to prevent the population from growing and rendering it less necessary to construct sewers and other sanitary appliances? I trow not.

"Now as to the meaning of the word 'permanent', in regard to fires. It has been said that, those are important fires which for a length of time require the services of the fire-brigade Surely that is not the test of importance in regard to fires! It may be of great importance to the fire-brigade as regards the amount of work it has to perform. But is it suggested that, those fires are therefore the more dangerous? Not so. Which really are, the most dangerous fires? The fires which are dangerous are, those which blaze and spread within so short a space of time that very often the fire-brigade is unable to come before the conflagration has most widely spread. I am therefore not surprised to find that, the time occupied in putting out fires in jute warehouses is three days in the one, and in bastis only five hours.

"There is one further matter to which I desire to refer. The Hon'ble Mr. Cotton referred to a paper which he laid before the Select Committee with respect to the rate of insurance, as showing that jute presses paid a premium of three and a half per cent. The hon'ble gentleman said that, a rate of three and a half per cent. in jute press-houses is an excessive rate as compared with the rates of insurance on godowns with loose jute (2 per cent.), and on baled jute (one per cent.), and one-eighth per cent. on private houses. But I wish to draw the Council's attention to the note, which is set opposite to that statement, in the paper. In that note, the Commercial Union Company through their Manager point out that, the premium on jute presses is three and a half per cent.; such premium is subject to a deduction of from 5 to 15 per cent., according to the nature of the appliances for putting out fires. But there is another note, and that the latest quotation which the writer had heard of was, three and a half per cent. less 30 per cent., or nearly one-third; so that the rates have come down to one-third of three and a half per cent.

[*Mr. Woodroffe.*]

"One word more as to another matter, and I conclude. It is with reference to the observation of the Hon'ble Mr. Lee dealing with the question of Act II of 1888. I had not forgotten the language of section 37. I did not refer to it, because it is irrelevant. It is irrelevant, because when the Municipal Act was passed the cost of the fire-brigade was borne by the jute and other industries, and the amendment of the Fire-brigade Act was not then in the contemplation of the Legislature. Consequently, although section 36 says that, the maintenance of the fire-brigade is one of the proper objects of municipal expenditure, it did not find a place in section 37. The object of my amendment is, to remedy that state of affairs.

"The Hon'ble Mr. Lee referred at some length to the discussion which took place on the passing of Act II of 1888, with respect to education. But with every respect for educational projects, I, for one, do not see that the preservation of life and the protection of property from fire stand on the same footing as education.

"Again, it is observed that, there is a project here of having special rates which extend to all classes of property, and in that, I am at one in saying that, I recognise to the full the propriety of the imposition of these rates, if there are to be differential rates on occupiers rather than upon the owners of houses. That, however, is a matter for subsequent consideration.

"I do not make any observations about the proportion of jute fires to other fires. I could not follow, though with every desire to do so, the Hon'ble Mr. Lee in his attempted explanation of this matter. I still understand him to say that, 90 per cent. of the property consumed belonged to the jute industry. With the Hon'ble Mr. Risley, I venture to express the opinion that, the value of property consumed is no element whatever in the consideration of the matter now before the Council.

"The time has now arrived in which this question, which has been so repeatedly brought forward, but which has hitherto not received that full discussion which is necessary, should receive its final solution. There can be but one final solution—the acceptance of the principle of a general rate of taxation. If that solution is not arrived at on the present occasion, I feel sure that the time will come when the justice and fairness of the demand, which I now formulate in this Council in this matter, will render itself more and more apparent."

The Hon'ble Mr. Woodroffe's Motion being put, the Council divided:—

Ayes 4.	*Noes* 7.
The Hon'ble Mr. Playfair.	The Hon'ble Maulvi Syed Fazl Imam, Khan Bahadur.
The Hon'ble Babu Gonesh Chunder Chunder.	The Hon'ble Mr. Wallis.
The Hon'ble Mr. Risley.	The Hon'ble Dr. Mahendra Lal Sircar.
The Hon'ble Mr. Woodroffe.	The Hon'ble Mr. Lee.
	The Hon'ble Mr. Lambert.
	The Hon'ble Mr. Cotton.
	The Hon'ble Mr. Allen.

So the Motion was negatived.

The Motion, that the Report of the Select Committee be taken into consideration in order to the settlement of the clauses of the Bill, was then put and agreed to.

The Council adjourned to Saturday, the 25th February, 1893.

CALCUTTA;
The 8th March, 1893.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 1036G—300—13-3-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 25th February, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE H. H. RISLEY, C.I.E.

The HON'BLE J. LAMBERT, C.I.E.

The HON'BLE H. LEE.

The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON'BLE A. H. WALLIS.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE P. PLAYFAIR.

The HON'BLE MAHARAJAH RAVANESHWAR PROSAD SING BAHADUR.

NEW MEMBER.

The HON'BLE MAHARAJAH RAVANESHWAR PROSAD SING BAHADUR took his seat in Council.

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The Hon'ble MR. COTTON moved that the clauses of the Bill, for the regulation of Warehouses and the maintenance of a Fire-brigade, be considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. WOODROFFE moved that, in clause (*9*) of section 3, the word "coir" be omitted.

He said:—"It is right that I should explain how, notwithstanding that the Bill as settled by the Select Committee, of which I was a member, deals with

'coir' as an inflammable substance, this amendment comes to be moved by me. At the time when the Bill was before the Select Committee, a Memorial was placed before us from the Secretary to the Calcutta Trades' Association, in which it was urged that, 'coir' was not inflammable; that if thrown on a live fire it would not blaze, but only smoulder; that seventy-five per cent. of the rope made in Bengal is made of imported coir yarn, and that during the eighty years these roperies had been in existence, no fire had occurred in them.

"I believe the Select Committee were much impressed by this Memorial; and they would not have included 'coir' amongst the highly inflammable substances, were it not for a fire having occurred in which a considerable amount of coir had been destroyed. Under these circumstances, 'coir' was put into the clauses of the Bill when it was passing through the Select Committee. Since then, a further representation has been made on the subject, not only to myself but also, I believe, to other members of the Council, with the result that we are satisfied that the article, though inflammable, is not of that extremely inflammable character which would justify its retention in clause (*9*) of section 3 of the Bill. It can, however, hereafter be dealt with under section 26, clause (*a*), of the Bill, which provides that, the Commissioners may, for the purpose of further providing the cost of the fire-brigade, levy a rate not exceeding two and-a-half per centum on buildings employed for the storage of any other inflammable substance or thing not specifically mentioned in clause (*9*) of section 3 of the Bill. With these explanations and observations, I move this amendment."

The Hon'ble MR. LAMBERT said:—"As far as I am aware, there has been only one fire in a godown in which coir and cocoanut fibre is stored, and that occurred on the 11th of January last. It was not a very important fire: and there are not many store-houses which would contribute to this tax, if coir were included amongst the inflammable articles. On these grounds, I support the amendment."

The Hon'ble MR. WALLIS said:—"Since this question was considered by the Select Committee, it has been represented to me by one or two firms interested in the coir industry that, 'coir' should not be included amongst goods of a highly inflammable nature, as coir yarn of itself will not burn. I am glad to hear the Hon'ble Mr. Lambert say, that he has no knowledge of any other case of fire in a coir godown. I may mention, that the fire which recently took place in

Ezra Street was in a very small godown about 50 feet long by 10 feet by 8 feet in measurement, which contained 3,500 bundles of coir of 30lb each and 50 bales of coir fibre. Out of this, 2,100 bundles of coir yarn and the 50 bales of coir fibre were untouched by fire; the remaining 1,400 bundles were damaged, but half the yarn was picked out the next day and sold: not a single bundle was wholly burnt, and the damage was chiefly confined to four inches of the ends of the bundles. The fire was caused by the mats in which the fibre was packed catching fire, and when these were burnt, the fire was deprived of fuel and did not spread. The godown adjoining, which was only separated by a wooden door, was burnt through, and yet the coir yarn in that godown, though resting against the door, did not communicate the fire to the contents. The fire broke out at 7 P.M., and for two hours after the brigade arrived, there was no water available; yet the fire was put out about midnight. This shows, that a coir godown is not so dangerous as to justify it being classed under the definition of 'warehouse'".

The Hon'ble MR. PLAYFAIR said:—"I support the amendment proposed by the learned Advocate-General. Coir, I understand, is not inflammable; neither is ship-chandlery as distinguished from the articles separately mentioned under clause (*9*) of section 3, nor is linseed-oil; and when the vendors of these articles realize, as their more alert neighbours have done, that their godowns and yards are about to be specially taxed for the support of the fire-brigade, it is fully to be expected that they, too, will raise a protest. I would suggest, with your Honour's approval, that 'ship-chandlery' and 'linseed-oil' be also omitted from clause (*9*) of section 3 of the Bill. And if your Honour will permit this amendment to be put to the Council without formal notice, I beg leave to submit it."

The Hon'ble MR. WOODROFFE'S Motion was put and agreed to.

The Hon'ble MR. PLAYFAIR'S motions that, in clause (*5*) of section 3, the words "nor linseed-oil" be inserted after the figures "1886", and that in clause (*9*) of the same section, the word "ship-chandlery" be omitted, were put and also agreed to.

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"As the amendments, Nos. 2 to 6 in the List of Business, standing against my name relate to the same matter, I ask permission to refer to them together as one amendment.

The matters involved in these amendments, relate to the power of the Commissioners to grant or refuse licenses. The Select Committee have introduced an alteration in section 6 of the original Bill, the effect of which is, to withdraw the power of granting or refusing licenses from the Commissioners and to put that power in the hands of the Chairman. The system of granting licenses to warehouses was first introduced by Act IV of 1866, which provided that, licenses should be obtained from the Justices. Then Act II of 1872 repealed so much of Act IV of 1866 as related to the granting and refusing of licenses to jute warehouses, and that Act provided that, it should be within the discretion of the Justices at a special meeting to grant or refuse licenses; and Act V of 1879, conferred those powers on the Commissioners at a special meeting. Act IV of 1883, which repealed Act V of 1879, also retained these powers in the Commissioners at a special meeting.

"The Committee which was appointed in 1891 under the presidency of Sir Henry Harrison recommended, amongst other things, that the power of granting licenses should remain with the Municipality, and the Bill, which was introduced into this Council by the late Sir Henry Harrison, than whom I may say, without fear of contradiction, few persons can claim greater experience in these matters, left the power of the Commissioners in this behalf untouched; but the Select Committee have thought fit to withdraw this power from the Commissioners. They, however, did not assign any reason in their Report, why this power has been withdrawn from the Commissioners. They merely say, that this power has been reserved to the Chairman; but why it has been taken from the Commissioners and given to the Chairman, does not appear. Nor do I find anything in the statement made by the Hon'ble Member in charge of the Bill, when presenting the Report of the Select Committee, showing why it is, that the Select Committee thought fit to take away this power from the Commissioners.

"It seems to me, Sir, that this proposal of the Select Committee is opposed to the spirit of Local Self-Government, which, I take it, it is the intention of the Government of this Province to encourage, develop and extend as far as practicable. With reference to this provision of the amended Bill, I find that the Commissioners have sent in a report in support of my amendment, in which they say:—

'Section 8 of the Bill modifying section 6 of the present Fire-Brigade Act (Act IV of 1883, B.C.)—The Commissioners must beg leave to protest against this section which

deprives them of the power which they now possess to grant licenses to jute warehouses, and vests this power in the Chairman or in a Committee appointed with the consent of the Chairman. This provision is in conflict with the principle which runs through the whole of the present Municipal Act, by which the Commissioners in meeting direct and control the proceedings of the Chairman in all matters. Nor, indeed, has any case been made out for this change in the law. For, in the only instance where there has been some hesitation on the part of the Commissioners to grant a license to a jute warehouse, *viz.*, in respect of premises No. 15 Kassi Mitter's Ghat Street, belonging to Messrs. Finlay, Muir & Co., such license was eventually granted on the conditions suggested by the Commissioners being accepted by Messrs. Finlay, Muir & Co. And even if it were admitted that the Commissioners made a mistake in this case, they submit that one isolated instance like this is not sufficient ground to justify the withdrawal from them of this power, which they claim that they have on the whole satisfactorily exercised.'

"I find that the Hon'ble Mr. Lee, the Chairman of the Corporation, was a member of the Select Committee of the Council on this Bill; but whether in agreeing with the Committee he referred the matter to the Commissioners and obtained their assent to this provision or not, does not appear. We find, however, that the Commissioners themselves protest against this alteration, and ask that the power of granting licenses be restored to them. As no reason has been assigned why this power has been taken away from the Commissioners, I submit that it ought not to be taken away; and if this view is accepted by the Council, section 9 of the Bill will be unnecessary. I therefore move that, in section 5, the words 'Chairman of the' be omitted, the effect of which will be to restore the power which the Commissioners have exercised for over twenty-six years."

The Hon'ble Mr. Playfair said:—"The views of the mercantile community, including the Hydraulic Press Association, upon the amendment proposed by the hon'ble member, may be found in the letter addressed by the Chamber of Commerce, dated the 22nd of September last, to the Government of Bengal, and are couched in these words which I ask permission to read:—

'In dealing with the general question of the grant of a license, the Committee of the Chamber of Commerce would point out that, under the existing Act, the machinery employed is as cumbrous and unbusiness-like as it is possible to conceive. By section 6 of Act IV (B.C.) of 1883, the granting of a license rests *within the discretion of the Commissioners at a special meeting.* It is impossible that such a system should work smoothly or well. The Committee would therefore suggest that, however the questions dealt with in this letter may be settled, there should be a provision of law confining the granting, refusing, cancelling or re-granting of licenses, if licenses are to be resorted to, to a small working committee, composed of, say,

the Chairman of a municipality and three or four Commissioners holding office for a given time.'

"I believe I am correct in saying that, out of respect to these views, the Select Committee drafted sections 6, 7, 8 and 9 of the Bill now before Council, conferring power upon the Chairman of the Commissioners to grant licenses. If the procedure in the granting of licenses has been 'unbusiness-like' and 'cumbrous' in the past, when only a limited number of licenses have been required in connection with jute and cotton warehouses, the inconvenience to the public, under the same system, is likely to be much enhanced by the additional number of licenses made compulsory on trades specified in clause (*9*) of section 3 of the Bill. It has become all the more necessary, therefore, that the routine observed in the consideration and granting of licenses should be altered. It is a general experience, that large Committees impede and protract the despatch of business, and, in public estimation, the Commissioners in general meeting have not escaped from this fault. I hold that, a license should be obtainable by any person whose premises are constructed in conformity with the requirements of the Act and are situated in a locality recognized as suitable for the trade. Such license should be forthcoming promptly after inspection, and the inspection should be made on application. To protect traders from inconvenience and possible loss, it is necessary that it should be so. It has been a great hardship to jute merchants to have to wait weeks, and in some instances many months, before a license is granted, and while the Municipal Commissioners in general meeting assembled hold an academic discussion over the application. I cannot, therefore, support the amendment proposed by the hon'ble member."

The Hon'ble MR. WOODROFFE said:—"I feel bound to oppose this motion. By grouping all these motions together, the hon'ble member has not, I venture to think, a little obscured the real question at issue. As regards the proposed amendment to section 5, for instance, it is obviously unnecessary for an applicant for a license to do more than to apply in writing to the Chairman of the Commissioners. The case is the same as regards the proposed amendment of section 6. The real question is in respect of sections 7 and 8, and the suggested omission of section 9 which provides that, the Commissioners can have, and in all probability will almost invariably have, in the form of a Special Committee therein provided for, the power to exercise the functions of the Chairman under this Act with his consent. It appears to me that, it is not only on the ground of the delays which have taken place in the

granting of licenses, as explained to us in Select Committee, but also that there has been not unfrequently something which is described, on the other side of the Atlantic, as 'lobbying'—various persons putting pressure on the Commissioners to vote for the grant or refusal of licenses—that it is eminently desirable that, the power of granting or refusing licenses should be vested in the Chairman, and, with his consent, in a Special Committee of the Commissioners. The Select Committee, in framing this section of the Bill, had in view the selection of Commissioners who, from their position, knowledge and experience, would be able to exercise proper and due control in the matter of granting or refusing licenses.

"I cannot, however, sit down without referring to the observation of the hon'ble mover of these amendments that he did not know whether the Hon'ble Mr. Lee, who was the Chairman of the Corporation and a member of the Select Committee, had the consent of the Commissioners to vote in the manner in which he did. It seems to me that, there is involved in that observation a suggestion which is not tolerable. I venture to assert that hon'ble members of this Council, whether in Council or in Select Committee, do not stand in the position of delegates, and are not, and cannot for one moment be, supposed to be bound by any orders or any directions emanating from any source whatever."

The Hon'ble Mr. Cotton said:—"I think it possible to suggest an arrangement which may meet the suggestion of the hon'ble mover of these amendments, and also, perhaps, be accepted by the gentlemen opposite who have opposed it. I do think there is considerable force in the contention of the Hon'ble Babu Gonesh Chunder Chunder that, the innovation introduced in the Bill is an encroachment on the powers which have been exercised for a great many years by the Municipal Commissioners of Calcutta, and I would be exceedingly reluctant to identify myself with any such encroachment. But this is due, I think, mainly to the fact that, as the law now stands, licenses can only be granted by the Municipal Commissioners at a special meeting convened for the purpose. This means, in effect, that the whole of the Commissioners in a body deliberate on the question; and there can be no doubt whatever that, when an executive matter of this kind is entrusted to a representative body of men like the Commissioners, it is apt to be badly handled, it is apt to be greatly delayed, and, as the learned Advocate-General has pointed out, there is great risk of what he has described as 'lobbying'

or 'backstairs influence'. I certainly think that, it is very undesirable that questions of this nature should be taken up at a special meeting of the Commissioners. At the same time, I do not think sufficient cause has been made out for withdrawing the power of granting these licenses from the Commissioners altogether ; and I conceive that this question of granting or refusing licenses to jute warehouses is, eminently, a power which should be dealt with by a Select Committee of the Commissioners appointed by the Commissioners for the purpose.

"This suggestion will, I believe, meet with the Hon'ble Babu Gonesh Chunder Chunder's acceptance, and I hope that hon'ble members opposite will not object to it. It will come to this, that instead of the power resting in the Chairman and the Chairman approving of the appointment of a Select Committee for the purpose, the power will rest in the Commissioners and the Commissioners will appoint a Committee. In this way, the rights of the Municipal Commissioners will not be in any way interfered with, while the matter may expect to receive as prompt and fair treatment as it would do under the present provisions of the Bill. I may add, with regard to the question of despatch in dealing with these applications, that it is dealt with by a separate section of the Bill (section 7), to which I see no objection has been taken; and if that section becomes law, I do not think there can be any reasonable grounds for apprehending unnecessary delay in the disposal of applications for the licensing of warehouses.

"If this suggestion of mine meets with the approval of the Council, the necessary verbal alterations needed in the Bill will be drafted without difficulty by the Secretary. I do not wish to commit myself to them while addressing the Council."

The Hon'ble MR. WALLIS said:—"I think the hon'ble mover of the amendment has rather overrated the danger to municipal authority and privilege, from the adoption of the recommendations of the Select Committee. The object, as I understood it in Select Committee, was to appoint a Special Committee to consider these questions of granting licenses where applications are submitted, but I cannot agree with the Hon'ble Member in charge of the Bill that, a Special Committee should be appointed on each occasion. [The Hon'ble MR. COTTON said:—"My idea was, that a Standing Committee should be appointed; not a Special Committee in each case."] Then, I fail to see the difference between the

proposal made by the Hon'ble Mr. Cotton and the provision contained in the Bill. As I take it, the effect of the amendment proposed by the Hon'ble Babu Gonesh Chunder Chunder would be, that the existing Act shall remain in its present form. It has been shown by the Hon'ble Mr. Playfair, that the working of this portion of the Act has proved unsatisfactory; that it has caused endless delays, and consequent inconvenience and loss to those applying for licenses. The object, and I think the effect, of section 9 of the Bill will be the appointment, with the sanction of the Chairman of the Commissioners, of a Special Committee which would always consider all applications for jute licenses or the licensing for places coming under the definition of 'warehouses', and I think such a Committee would be better able to do the work than a Committee which may be appointed from time to time. I see that the Committee of 1891 recommended that, this power should be left in the hands of the several municipalities concerned, and the proposal in the Bill provides that, the granting or refusal of licenses will be in the hands of a certain number of the Commissioners specially appointed by their colleagues on that behalf."

The Hon'ble Mr. Lee said:—"At the first meeting of this Council this Session, Your Honour observed, in explaining why the Fire-brigade Bill should be proceeded with while other measures should be for the present dropped, that—

'The Fire-brigade Bill is one of purely local interest, and the interests concerned in it are interests which, I understand, will be represented in much the same way in the revised Council as they are now. I believe, for instance, that it is intended that the Calcutta Municipality shall be represented in the enlarged Council, and for that reason, I obtained sanction to the appointment to the Council of the Chairman of the Calcutta Corporation to represent the Municipality while the present Bill is under discussion, in order that the Municipality may not be worse of but may be as fully represented now as hereafter.'

"Sir, an executive officer who, during the eighteen years that he has had the honour of serving Her Majesty, has steadily set his face against the manufacture of speeches, as calculated rather to hinder than to advance work, must be but an inefficient spokesman of the Municipal Commissioners. But the duty has been thrown upon me, and I must endeavour to meet it.

"The principles that have hitherto guided the Legislature, in respect of the imposition of taxes and the granting of licenses under the Jute Warehouses and Fire-brigade Acts, are now being attacked in more ways than one. The

sums concerned are comparatively small, but the principles involved are important. The first principle that has been attacked has been, that the Sanitary Funds of the Municipal Commissioners should not be whittled away. That attack was repelled last Saturday. It will have to be met again to-day. The next principle that is attacked is, that the Municipal Commissioners of Calcutta should continue to have the control of the location of the objectionable trades in the City—objectionable from whatever cause. At present, the Municipal Commissioners have the power, and exercise it, of locating hide godowns, mills for the pressing of oil, for the crushing of bones, offensive and dangerous trades of all kinds; and it is suggested that, they should not have that power as regards the location of jute warehouses. There is only this difference between their powers in respect of hide godowns and the like and jute warehouses that, a special safeguard is added to the public as regards jute warehouses. That, I understand, was the cause of the introduction of the words 'at a Special Meeting' in the last law; that only at a special meeting, can the Commissioners give sanction to the licensing of new jute warehouses. In respect of all other objectionable and offensive trades and dangerous trades, applications for licenses come to the Secretary to the Corporation. The responsible officers of the Corporation, the Health Officer and the Engineer, report, and the Chairman, as a rule, grants or refuses the licenses without any further ado. In doubtful cases, he refers the papers to the General Committee, and the proceedings of the General Committee are then confirmed or rejected in general meeting. Now, Sir, it is proposed to make jute warehouses an exception to this general rule, and not only to take away this special safeguard, that is supposed to be added to the public by means of which the fact becomes publicly known when it is proposed to open a jute warehouse in a particular spot, so that the owners of adjacent properties might protest if need be, but it is proposed to take away altogether the controlling voice of the Commissioners as a body in respect of licenses for jute warehouses.

"The general principle, as I have shown, is, that the Chairman acts in executive matters on his own responsibility, but subject to the control, in special cases, of the Commissioners. In matters of this kind, really small matters but matters of sentiment, no wise Council, and I am sure not this Council, will interfere unless a strong case is made out to necessitate the interference. What case has been made out? I have taken the trouble to go through the instances in which the Chairman and the Commissioners have for a time differed, as to whether licenses should be granted or should not be granted to jute ware-

houses. I find that since the 3rd of March, 1887, there have been but four such cases, and in the end, in each of those cases, a satisfactory solution has been come to and the Chairman and the Commissioners have come in accord, the Chairman's view always prevailing. I believe that the real cause for this suggested change has been, the delay regarding one particular license. In that case, a license has been granted. It was a doubtful case. I myself thought that the license should have been granted from the first; Sir Henry Harrison thought the same; the voting was very close but it was a doubtful case; there was no cart space, and frequently it has been required that there should be cart space. It was not the licensing of a new warehouse, but simply the licensing for a particular purpose, of a shed, which had already been used for the purposes of a warehouse. It was simply, that a license should be granted for sorting jute in a shed where warehouse work was being conducted. So that really it was not an extremely important matter, though much has been made of it. In regard to the Report from the Municipal Commissioners, which has already been referred to twice, I must inform the learned Advocate-General that I did not sign that Report. I did not sit as a member of the Committee when it framed the report, and I have only made two marginal notes in the report. Unfortunately, the letter with which I forwarded this Report, in my capacity of Chairman, to the Secretary of the Legislative Department has not been put before the Council, because of an accident. The letter went to the wrong Secretary; but I explained in that letter that, I did not form a member of that Special Committee. However, the remarks of that Committee, on this particular point at all events, have my entire concurrence where they say:—

'Even if it were admitted that the Commissioners made a mistake in this case, they submit that one isolated instance like this is not sufficient ground to justify the withdrawal from them of this power, which they claim they have on the whole satisfactorily exercised.'

"Since the year 1887, there have been refused altogether 13 applications for licenses, and four were pending when the statement, I hold in my hand, was prepared. In one case, the reasons given for refusing a license were, that the site was unsuitable and no passage was left convenient for the fire-brigade. That was the one case which was refused in 1887. Five cases were refused in 1888-89: two cases because no plans were supplied; two for want of cart space, and one, because the site was both unsuitable and the cart space was insufficient. In 1889-90, one application was refused for want of cart space; in 1890-91, two were refused; one because no plan was submitted and one for

want of cart space, and last year four were refused, one for want of cart space and three because no plans were submitted. On the other hand, the number of applications sanctioned was 24.

"Without pressing on the Council in this case the wisdom of Paschal's aphorism, that 'much of the mischief of this world would be avoided if men would be but content to sit quiet in their parlours', I trust that the Council will see that it would be discreet to let well alone. I have had to listen to a certain amount of raillery aimed at the Commissioners, of whom I am Chairman. The consideration whether, it is possible or impossible to inflict physical hurt on a Corporation, whether it is possible or impossible that in the hereafter the seventy-five Commissioners can be found congregated around the throne of 'imperial Satan', is no argument. As Chairman, I recognize the compliment offered in this proposal, but I would beg respectfully to decline it when it involves a slur on the co-adjutors with whom I have worked daily, almost hourly, in harmony for the last three years. I support the amendment of the Hon'ble Babu Gonesh Chunder Chunder if, as I understand, he accepts the suggestion of the Hon'ble Member in charge of the Bill."

The Hon'ble MR. ALLEN said:—"I am at a considerable disadvantage in dealing with the amendment before us, having very partially and indistinctly heard what has fallen from the hon'ble members who last addressed the Council, the Hon'ble Mr. Lee and the Hon'ble Mr. Cotton, and therefore I must ask to be excused if, in any way, I blunder over their explanations of the subject under discussion. The case seems to me a very simple one. The Bill, having been introduced into this Council, was referred to a chosen number of its members, in order that they might examine it closely and make their report to this Council. It is to be presumed that, in selecting the members of that Committee, the Hon'ble Member in charge of the Bill selected those whom he thought most likely to be conversant with the matters which would come before them, and most competent to offer an opinion which this Council would be wise to accept. Well, Sir, this Bill was made over to those members, and after repeated meetings, discussions and consideration of the papers placed before them, and collecting all the information that could be obtained, they have submitted a report to this Council and they have recommended that, the granting of licenses should rest with the Chairman of the Commissioners, subject to that modification which section 9 provides. The hon'ble

member opposite has, however, brought forward an amendment which, as far as I can understand his reasons, has no other foundation than the fact that, in former times, the grant of licenses was not in the Chairman but in the Commissioners. That fact, no doubt, had considerable influence with the Select Committee, and was given full weight to before they recommended any departure from the previous practice; and I think it would be singularly unwise for this Council to revert to that old discredited practice, simply because it was the old practice. I do not very well understand what the suggestion of the Hon'ble Member in charge of the Bill has been. Apparently, he is going half-way to meet the amendment, and I do not see how, if that is his intention, he can at this stage propose any change. The amendment before the Council, is either to be accepted or to be negatived. When a decision has been passed upon that amendment, it will then be open to the Hon'ble Member in charge of the Bill to consider what modification he thinks proper. But, as far as I understand his amendment, it is, I believe, nothing more than what is already provided for in section 9. He proposes that, the Commissioners shall elect a few of their number as a Special Committee to deal with the matter. That is exactly what is laid down in section 9. The section runs thus:—

'With the consent of the Chairman of the Commissioners, any Special Committee of the Commissioners, not less than three or more than five in number, whom the Commissioners in meeting shall in that behalf appoint, may exercise the powers and discretion under this Act vested in the Chairman of the Commissioners.'

"That is what I understand the Hon'ble Mr. Cotton proposes, with this exception, that possibly he does not require the consent of the Chairman as a preliminary. In no way is that suggestion before the Council. The question is, whether we should accept or reject the amendment of the Hon'ble Babu Gonesh Chunder Chunder.

"Frequent reference has been made to the late Sir Henry Harrison; his sayings and opinions have been dragged into this discussion and he has been appealed to as if he were a sort of veiled prophet, whose opinions are to be accepted, simply because they were his. When the Municipal Consolidation Bill was passing through this Council, I had the opportunity of sitting day after day at that table with Sir Henry Harrison; when in Select Committee we were discussing the clauses one by one, it was his repeated remark, and a point he strongly insisted upon, that such cases as these, the making of appointments, the granting of license, executive matters of that kind, were exactly the business

which Municipal Commissioners are totally unfit to be entrusted with. For, whenever the case of individuals came before them, they were solicited out of doors by the parties interested.

"The learned Advocate-General has also alluded to the practice of 'lobbying', as a possible danger. I certainly consider that the people of this country have nothing to learn from those across the Atlantic, and that the art of outdoor nobbling members is as well understood here as it ever will be in America. It is urged that, if this function be left with the Municipal Commissioners of Calcutta, the trade of Calcutta will be exposed to certain inconveniences. *A priori* it would seem to anybody, that an executive matter like this is not a proper thing to be discussed by some 70 or 80 men and carried *yea* or *nay*, simply by a majority; yet I have no doubt that those who are interested in procuring licenses, if they go about it in the right way, would never fail to obtain a majority or be refused a license. But I cannot understand how any person, who really values the principle of Local Self-Government, can desire that such temptations to divert the Commissioners from a straightforward mode of discharging public functions should be put before them. It is not wise to trust little children in sweet shops; and certainly those who value Local Self-Government should desire to keep the Commissioners to their proper functions of advising, discussing general measures, passing general resolutions and controlling their Chairman, but not of dealing in detail with matters of this nature, where private interests are so much involved.

"The hon'ble member, who last sat down, has spoken as if he had been singled out and a personal compliment was paid to him by this provision in the Bill. Has the hon'ble member a life-estate in the Chairmanship of the Calcutta Corporation? But I was not aware, Sir, that when a clause of this kind is put into a law, declaring that certain duties shall be discharged by a Chairman or other public officer, that any compliment whatever is meant to the individual who for the moment happens to be Chairman or fills the office designated. I protest against such an idea. In passing Bills here, we are supposed to make provision for something more than one or two years ahead. I am aware that the Acts of this Council have a very limited life, and there is hardly one of them which has lasted above five years without amendment. But we must not assume that this will be the fate of this Bill; and even if it

exists for only five years, what probability is there of the hon'ble member opposite being the Chairman of the Municipality for that period?

"But putting all these considerations aside, I will give one reason why, in my opinion, the Chairman of the Commissioners is the proper person to be trusted with this function, and not the Commissioners. When a function of this nature is thrown upon a large body of some 70 or 80 persons, it is impossible to attach the responsibility when that function is dishonorably, or arbitrarily, or vexatiously performed. But when we throw the duty upon the Chairman of the Commissioners, if he acts arbitrarily, the responsibility can easily be fixed; and the fact that he is acting under this sense of responsibility, is no small guarantee and security for the public. I quite believe that the Chairman of the Calcutta Corporation may be as weak, as arbitrary and as oppressive in the discharge of his functions, as the Commissioners themselves; but if he is, it is perfectly plain to see where the fault lies, and the indignation aroused by such behaviour will probably lead to a change.

"For this reason, therefore, that by throwing the responsibility upon the Chairman we know to whom to attribute any misconduct. I say that this alone is a good ground why the Report, which has been made to this Council by the Select Committee, should be accepted and the Bill should not be altered in the sense of this amendment."

The Hon'ble Mr. Lambert said:—"I must take leave to doubt, whether the amendment put forward by the hon'ble mover represents the unanimous views of the Commissioners. The Council will notice, that the question has never been brought before the members of the Corporation in meeting, nor has the Report of the Special Committee been presented to the general body of Commissioners. I believe that many Commissioners agree with me in thinking that the section of the Bill, as it now stands, is a wise one. In the first place, it is of great importance that applications for licenses to store jute should be dealt with promptly; but there were many instances in which this had not been the case. It was this consideration, which led to the framing of the clause which it was sought to amend. Then, again, it is desirable that licenses should be granted with due regard to the convenience of the general public, and this was what the framers of the Act had in view when cart space was required. Over and over again have applications been referred to me for my opinion by the Chairman of the Corporation, and over and over again have I urged that, in the interests of

the general community, licenses should not be granted when there is no cart space and when obstruction to the ordinary traffic in the streets would ensue. These remonstrances, on my part, have almost invariably been disregarded.

"The jute industry is a very important interest, but in dealing with applications to store jute, other considerations come in; and persons not engaged in that trade, strongly object to be shut out of the use of the streets which lead to their shops and houses for hours together by a string of jute carts. The case of Messrs. Finlay, Muir and Company has been referred to. In this case, application to assort jute in a warehouse in the native part of the town was brought forward on the 18th of April, 1890, and, strange as it might seem, it was nevertheless absolutely the case that the license was not granted until the 23rd of February, 1893, exactly two days ago. This application was frequently before the Commissioners, and was every now and then referred backwards and forwards from the General Committee to the Special Committee and from one Sub-Committee to another, without any result, until two days before the Council met. In July, 1890, Sir Henry Harrison, when he was the Chairman, used all his eloquence at a general meeting of the Commissioners to implore the Commissioners, in the general interests of the town, to lay aside all private feelings when dealing with matters of this kind; but a very large and influential section of the Corporation voted on that application, and it was refused. It was notorious that, when such applications came up, there was much canvassing and much private influence was brought to bear, and I have reason to know that a considerable number of the Commissioners are now willing to rid themselves of all responsibility in this matter, because they find that the best interests of the town will be secured by leaving the matter in the hands of their Chairman, and possibly a Special Committee."

The Hon'ble BABU GONESH CHUNDER CHUNDER in reply said:—"As I understand the suggestion made by the Hon'ble Member in charge of the Bill to be, that while the power, which I ask to be restored to the Commissioners, should not be restored to them but to a Special Committee to be appointed by them for the purpose. If that is the suggestion of the hon'ble member, then I have no hesitation in accepting that suggestion."

The Hon'ble MR. ALLEN rose to order:—"The hon'ble member who has just spoken has an amendment on the agenda paper, which he should either leave or ask leave to withdraw."

[*The President; Babu Gonesh Chunder Chunder; Mr. Cotton.*]

The Hon'ble THE PRESIDENT said:—"I think we are in danger of getting somewhat out of order in the course of this discussion, but considering how far things have gone, I think it will be best in the hon'ble mover of the amendment to state the form of the amendment which he wishes to be put to the Council, and, on his making his statement, I shall be prepared to decide, whether that amendment should be put to the Council on the present occasion, whether the original amendment should be adhered to, or whether the discussion should be deferred to the next meeting of the Council."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"My present proposal is this, that in section 5, after the words 'application in writing', the words 'to a Special Committee of the Commissioners to be appointed by them' be substituted for the words 'Chairman of the Commissioners.'"

The Hon'ble MR. COTTON said:—"I should like to make a brief suggestion to the Council. If we now involve ourselves in matters of detailed drafting, we shall get into difficulties. It would be a simpler plan to decide on the principle, whether the Commissioners should be directed under the Act to appoint a Special Committee to grant or to refuse licenses, or whether the power should be left as drafted in the Bill to the Chairman. The exact drafting can be determined after due deliberation."

The Hon'ble THE PRESIDENT said:—"I wish to make one remark on a collateral subject, before proceeding to the particular amendment before the Council. I wish to refer to what I venture to call, the weighty and statesmanlike remarks of the Advocate-General on the subject of delegation. We are now on the eve of an important reconstruction of this Council, the details of which are at present unknown. But we are aware that there will be a considerable extension and expansion of the principle of representation, and I think it very important that it should be understood to what extent and of what character the representation ought to be. I do not venture to forecast what orders we may receive from the Secretary of State or from the Government of India on this subject. But I wish most emphatically to record my agreement with what has fallen from the Advocate-General that, however much a member of this Council may be a representative of any Corporation, or of any interest, or of any body or association existing in these Provinces, he will, on his appointment as a member of this Council, act according to his lights and

according to his conscience. His position ought not to be that of a delegate, and he ought not to be called upon to record his vote in accordance with the views of his constituents whom he represents unless he heartily and personally agrees with them. His position will then be that, if he disagrees with those who sent him, he will have the power either of resigning or of persisting in retaining his appointment in opposition to those whom he represents, in the belief that they will, in the course of time, come to change their minds, and their only control over him will be, unless they change their minds, that they will not re-elect him on the next occasion. I trust we shall never be in a position in this Council in which any member can be called upon to confess, or in which any insinuation can be made that he did or did not consult his constituency, or that he is or is not acting in accordance with the votes passed in the preliminary discussions in this Council.

"Now, turning to the immediate subject before us, I think what has fallen from the Legal Remembrancer is a matter well worthy of our consideration. A Council of this kind is in some danger of falling into habits of an irresponsible debating society. It is extremely important that hon'ble members should realize the onerous and public position in which they are placed, and that they should come to this Council thoroughly prepared to state the views they have formed and to put them in a form in which they can be submitted for the opinion of their colleagues. The President has, under the Rules, power to receive amendments of which notice has not been previously given, and that power I have thought it right to exercise to-day in a matter which involved a very small point of detail; and even then, I felt some doubt whether it was right to have recourse to it. But I am quite sure that, it is not right that any important amendment or change of any kind should be placed before the Council, which may be the subject of debate and discussion and voting in this Council, without having a full and sufficient opportunity of considering it beforehand. And I feel sure that what my hon'ble friend was driving at, but did not give full expression to in his speech, is worthy of our consideration; and that is the responsibility of the position occupied by a member of the Select Committee of this Council. The Select Committee sat to discuss the Bill, which was drafted for submission to the Council, and to alter and amend it at their pleasure and with all the information before them. They have power to record their views in any form they liked, and any member of the minority may dissent separately or collectively from the opinion of the majority. But I do hold that, we shall find

it very difficult to carry on the business of this Council if any members of the Select Committee feel themselves, individually or in a body, at liberty to depart from the views to which they put their signatures, unless some important new facts are brought to their notice of which they were not aware before and which would justify them in altering their opinion; just as much as a Judge may alter, in review, his decisions upon facts not brought to his notice at the time of trial.

"Upon this occasion we have a definite proposal, put before us by the Hon'ble Babu Gonesh Chunder Chunder, which involves an important principle, and it is quite possible for us to vote upon it; but a subsequent amendment which was brought forward by the Hon'ble Member in charge of the Bill, and which the hon'ble mover of the first amendment is willing to accept, is one which has not been formulated and which it will be difficult to formulate, and which it will be impossible for the Council to discuss or vote upon on the present occasion. I think, therefore, that the best plan to pursue is, to put the amendments of the hon'ble member separately and not collectively; it will follow, if it is determined to retain the word 'Chairman' in the manner in which the Select Committee places it in the Bill, that the principle which is under discussion will have been settled, and there will remain no further opportunity for proposing that a Select Committee should be appointed, on behalf of the Commissioners, to exercise their powers. But if the Council decides to cut out the word 'Chairman', not perhaps in section 5, where it naturally occurs independently of the principle before us, but in sections 6, 7 and 8, then it will be open to us to alter section 9, so as to provide that, the power which the preceding sections have given to the Commissioners to grant or refuse licenses shall be exercised by a Special Committee to be appointed by the Commissioners, either in each case or as a standing body, for that purpose. But that amendment it will be impossible to put to the vote, until it has been formally and properly drawn out."

The Hon'ble BABU GONESH CHUNDER CHUNDER'S motion that, in section 5, the words "Chairman of the" be omitted, was put and negatived.

The Hon'ble BABU GONESH CHUNDER CHUNDER'S motions that—

(*1*) in section 6, the words "Chairman of the" and "of the Chairman" be omitted; also that in line 20 of the same section, the words "at a special meeting" be inserted after the word "Commissioners", and that in line 21, the words "from the Commissioners" be omitted:

(*2*) in line 4 of section 7, the words "Chairman of the" be omitted, and that the words "by an order in writing under the hand of the Chairman of the Commissioners setting forth the grounds for such refusal" be also omitted:

(*3*) in section 8, the words "Chairman of the" be omitted:

being put, the Council divided:—

Ayes 4.	*Noes* 7.
The Hon'ble Babu Gonesh Chunder Chunder.	The Hon'ble Maharajah Ravaneshwar Prosad Sing Bahadur.
The Hon'ble Dr. Mahendra Lal Sircar.	The Hon'ble Mr. Playfair.
The Hon'ble Mr. Lee.	The Hon'ble Mr. Wallis.
The Hon'ble Mr. Cotton.	The Hon'ble Mr. Lambert.
	The Hon'ble Mr. Risley.
	The Hon'ble Mr. Allen.
	The Hon'ble Mr. Woodroffe.

So the Motions were negatived.

The Hon'ble BABU GONESH CHUNDER CHUNDER's motion that, section 9 be omitted, was put and also negatived.

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motion of which he had given notice that, for the first paragraph and the first proviso of section 10, the following be substituted:—

'The annual fee payable in respect of any license shall not exceed one hundred rupees.'

The Hon'ble BABU GONESH CHUNDER CHUNDER moved that, in line 5 of section 10, the words "five per cent. on" be inserted after the word "less."

He said:—"I thought that the wording of the section, as it now stood, was perhaps an oversight on the part of the Select Committee, for I cannot conceive that the Select Committee could have seriously meant to lay down that, the whole cost of the appliances for extinguishing fires should be deducted from the annual value of the warehouse. I could well understand their proposing to deduct the whole cost of these appliances against the whole value of the warehouse; but the result of the provision, as it stands in the Bill, will be, as I take it, to deduct the capital outlay on account of appliances from the income of the property, which appears to me to be absurd. Let us take a concrete case. If the annual value of a warehouse be Rs. 3,000, the capital value would

perhaps be sixteen times that amount, or Rs. 48,000; and if the owner laid out, say, Rs. 3,000 in fire-extinguishing appliances, that is to say, one year's income of the warehouse, he would be exempted entirely from paying any annual fee in respect of the warehouse, because the fee would have to be fixed on the annual value of the warehouse, minus the cost of the outlay for appliances for extinguishing fires, and there would be nothing upon which to fix the annual fee to be paid by the warehouse. I do not think that, that could have been intended by the Select Committee. To allow 5 per cent. on the amount of the outlay for extinguishing fires from the annual value would, I submit, be reasonable, and therefore I propose to insert the words 'five per cent. on' after the word 'less'."

The Hon'ble MR. WOODROFFE said:—"The principle, Sir, if I may take upon myself to be in some measure the spokesman of the Select Committee, which prevailed in our minds when the Bill was going through Committee found expression in section 10. Subject to the matter which was discussed and decided at the last meeting, as to the advisability of defraying the cost of the fire-brigade by a general rate, we considered that it was above all things desirable, in the language of the letter of the Government, dated the 3rd of February, 1892, to which reference has already been made in the course of the debate on this Bill, that comparatively innocent storage godowns should not have to pay the same license fee as dangerously unprotected warehouses.

"There has already been placed before the Council very full details of the important preventive measures which have been taken by various jute warehouse owners for the protection of their premises, and the prevention of the spread of fire from them to those of their neighbours. In cases of this kind, it is not possible to protect one's self without protecting one's immediate and even more remote neighbours. It was therefore thought just that, in determining the amount on which the annual license fee should be collected, there should be taken on the one hand the annual value of the warehouse, as it is assessed to the payment of municipal taxes, and on the other the capitalised value of the outlay incurred in the rendering of those premises, as far as possible, free from risk of fire.

"It is obvious that, if in any warehouse there has been an outlay incurred which renders it wholely free from the risk of fire, there is no reason why it should be subject to special taxation. Such instances, however, are probably rare. But to the extent to which immunity has been secured,

justice demands that the assessable value should be obtained by deducting from the rateable value of the warehouse the outlay incurred in respect of the means and appliances, therein and appertaining thereto, for preventing or extinguishing fires. That result will not be obtained by merely deducting 5 per cent. per annum on such outlay from the annual value. It may happen that one owner expends many thousand rupees in fire-proof floors, fire-proof divisions, increased lengths of hose, and appliances of all sorts and descriptions, for preventing and extinguishing fires; while, alongside, there may be another jute warehouse equally large without any fire-preventing appliances whatever. The owner of the latter has taken no means to protect himself, and in so doing, exposes his neighbour to great risk. His position is, that he has protected his jute or cotton, or anything else which comes within the scope of the Bill, from the effects of the weather, and that he either takes the risk of fire upon himself or insures himself against it. But that leaves out of consideration the danger to which the neighbouring property is exposed, by the continuance of such a state of things. And, if I understand aright the views expressed by the Council, it is proposed to impose a special duty on hazardous trades even in respect of matters of general public convenience, because there is a certain special danger appertaining to them which renders them liable to be taxed for that purpose. The hon'ble mover of the amendment has, I venture to think, failed to appreciate the reasons which led the Committee to arrive at the conclusion they did, and erroneously supposes that, it would be fair merely to take from the annual value 5 per cent. on the outlay for such appliances. The section deals with two matters: first, the annual value for municipal taxes, and secondly, the outlay incurred in respect of means and appliances for preventing and extinguishing fires; 10 per cent., and subject to certain limitations, makes an assessment on the differences of these two sums. That, I submit, is a fair and just mode of dealing with the annual fee payable for a license on the supposition accepted by this Council that, there shall be a special taxation on commercial industries to meet the cost of the fire-brigade. For those reasons, I am unable to assent to the proposition of the hon'ble mover of the amendment in this matter and will record my vote against it."

The Hon'ble MR. COTTON said:—"I am bound to say that, in my opinion, the Hon'ble Babu Gonesh Chunder Chunder has indicated a blot in this measure. I have understood the section as drafted to convey the meaning that, the license

fee up to 10 per cent. per annum might be levied on the annual value of a warehouse, less the annual value of the outlay incurred in respect of protecting it. But, on closely examining the section, I see that that is not the meaning the words convey; and, as the learned Advocate-General has explained, the section as it stands undoubtedly means, that the total outlay incurred in providing means and appliances for preventing or extinguishing fires has to be deducted from the annual value of the warehouse on which the license fee has to be calculated. If this provision is passed into law, it will, in my opinion, stultify itself. The annual value of a warehouse, as it is assessed to the payment of municipal taxes, is 5 per cent. of the total capitalised value of the warehouse; that is to say, if a warehouse is constructed at a cost or an estimated cost of one lakh of rupees, the annual value to which it is assessed by the Municipality is Rs. 5,000. Now, Sir, it may well be that in such a warehouse the proprietors have incurred an expense of Rs. 5,000 for its protection from fire; it may be that they have incurred an expense of Rs. 10,000. In such a case, the warehouse would, if this section were to become law, be entirely exempted from taxation. Now, that certainly was not the meaning of the Select Committee.

"The suggestion that a deduction should be made from the annual value, on account of costs incurred for the protection of warehouses from fire, was made by my friend the learned Advocate-General, and it commended itself to the unanimous sense of the Committee on the ground that, it was only fair and reasonable that a deduction should be made on account of expenditure so incurred; but I, for one, and I believe I speak on behalf of other hon'ble members of the Committee, never understood that the whole value should be deducted from the annual value of the warehouse. If the section of the Bill, as it now stands, be passed, it will mean this, that wherever an expense of 5 or 10 per cent. on the total value of the warehouse is incurred for fire-preventing appliances, there the warehouse will be entirely exempted from the payment of any special license-fee. The hon'ble mover of the amendment has conveyed the meaning I had in my mind, when I assented to the provision of the Bill, by inserting the words 'less five per cent. of the outlay.' We might have more correctly said, less the annual value of the outlay, which I thought the words meant. But I see that the words in the section do not convey that meaning, and, therefore, I accept the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

[*Mr. Playfair; Mr. Wallis; Mr. Lee; Mr. Lambert; Mr. Allen; Babu Gonesh Chunder Chunder.*]

The Hon'ble MR. PLAYFAIR said:—"I do not agree with the Hon'ble Member in charge of the Bill. I understood that, the cost of private fire-engines and other appliances was to be deducted from the annual value of the warehouse. If these amendments were carried, it would be a departure from the principle on which the Bill is drafted. I do not think a building would be entirely free from taxation. It will come in for taxation under clause (*a*) of section 26, so that it will not be entirely exempt."

The Hon'ble MR. WALLIS said:—"As a member of the Select Committee, Sir, I understood that, if the cost of a warehouse is shown to be a lakh of rupees, and the cost of appliances provided for extinguishing and preventing fire was put down at a cost of Rs. 5,000, the value of the property, for the purposes of assessment, would be Rs. 95,000, and upon that value, the fees under the Act would be levied."

The Hon'ble MR. LEE said:—"My understanding of the intention of the Select Committee, is the same as that of the Hon'ble Mr. Wallis."

The Hon'ble MR. LAMBERT said:—"I also understood the intention of the Select Committee to be the same as explained by the Hon'ble Mr. Wallis."

The Hon'ble MR. ALLEN said:—"It appears to me that the mistake has arisen from the use of the words 'annual value' instead of 'capitalised value' by the members of the Select Committee. On the other hand, it is necessary to notice that some of the outlay for the prevention and extinguishing of fire may be of a recurring character, as, for instance, the expenditure on the employment of chaukidars and the establishment for working fire-engines; while the outlay on the engines and other appliances themselves, will be incurred once for all. The principle of the amendment would be fair if 10 per cent. of the capitalised value of the appliances were taken, but the recurring items would form an annual charge."

The Hon'ble BABU GONESH CHUNDER CHUNDER in reply said:—"The learned Advocate-General's amendment to my amendment amounts to this: that if all the warehouses in Calcutta and the Suburbs only spent a sum equivalent to the annual value of the warehouses, they would all be exempted from the payment of taxation on this account, and the provision of the Bill that, 50 per cent. of

the expenditure on the fire-brigade should be contributed by certain trades, would be nullified. I do not think it was ever intended that, a house in which a hazardous trade is to be carried on would be exempted from the payment of any license fee, if a certain amount of money were expended in providing certain appliances.

"The Hon'ble Mr. Allen's objection amounts to this: he says, that instead of the 5 per cent. being taken from the annual value the same should be taken from the capitalised value of the warehouse. [The Hon'ble MR. ALLEN said:—"I take no objection to the principle of your amendment."] As the Hon'ble Mr. Cotton has told you, the principle upon which the warehouse is assessed is, by taking 5 per cent. of the cost of the building. If that be so, it is only fair that, on the outlay for appliances, the same rate should be taken. When you have to deduct the outlay for the expenditure on account of certain appliances of a warehouse, it is only fair to deduct 5 per cent. upon the outlay for those appliances. If the assessment were to be fixed upon the whole value of the warehouse, then, no doubt, the whole expense of the outlay for appliances would be deducted. But when you are dealing with the income of the property, which the annual value represents, you can set against that only the annual value of the outlay for appliances. On no principle can you deduct the capital value of the outlay for appliances from the income of the property. Therefore, I submit that, 5 per cent. on the annual value is a reasonable sum to allow for such outlay."

The Hon'ble THE PRESIDENT said:—"It appears that the majority of the Select Committee meant to apply to the words a different meaning from what the Advocate-General understood them to mean, and as we are dealing with a matter which is a question of words, it behoves us to be extremely careful in drawing up an amendment. It is suggested by the Hon'ble the Legal Remembrancer that, the sum to be deducted should be not only a proportion of the capital outlay but also the recurring cost of the establishment kept up for working the appliances, and for keeping watch; and in order that this may be properly considered and the necessary amendments be formulated, the consideration of the question will be postponed to the next meeting of the Council."

The further consideration of the Motion was therefore postponed.

The Hon'ble BABU GONESH CHUNDER CHUNDER also moved that, in the first proviso to section 10, the words "that the annual fee payable by any owner or

occupier in respect of any license shall not exceed seven hundred and fifty rupees, and" be omitted.

He said:—"Under this Act, we have to raise a specified amount by imposing a percentage rate on the annual value of warehouses. That being so, the provision which I am seeking to amend is opposed to one of the fundamental principles of political economy, namely, equality of taxation. The effect would be, to make warehouses of larger value bear a less share of the burden to the loss and detriment of less valuable property. I think I shall best express my meaning by putting certain figures before the Council. Let us say that there are 100 warehouses to be assessed of the total annual value of 5 lakhs, and that the sum required to be raised for the purposes of this Act is Rs. 30,000 a year; that five of these houses are of the annual value of Rs. 15,000. If we assess these 100 houses, which I have already stated to be of the total annual value of 5 lakhs at a uniform rate of 6 per cent., we will get Rs. 30,000, the amount required for the purposes of the fire-brigade. But if five of these houses are of the annual value of Rs. 15,000, the tax on each of these houses, taking it at 6 per cent., will be Rs. 900, and if a maximum limit of Rs. 750 is prescribed in the Bill, these five warehouses will pay Rs. 150 a year, less than what a rate of 6 per cent. will produce. Therefore, the less amount of Rs. 750, which these five warehouses will pay under that limit, must be borne and paid by the other 95 houses. Because, all the warehouses together will have to pay Rs. 30,000 towards the fund, and the amount which these five warehouses will not pay, calculating the rate at 6 per cent., will have to be levied from the other 95 warehouses; that is to say, they will have to pay 3 annas per cent. more than 6 per cent.: so that these 95 warehouses will have to pay Rs. 6-3 per cent., whereas the other five warehouses of the assessments of Rs. 15,000 each, will get off by paying merely at the rate of 5 per cent. Therefore, it will be unreasonable and inequitable to assess the more valuable warehouses at a less rate than the less valuable warehouses, and this will surely be the result, if this maximum limit were allowed. I therefore move that the words, indicated in my amendment, be omitted from section 10."

The Hon'ble MR. WOODROFFE said:—"I think it desirable that there should be no misunderstanding in this matter. When the Bill was in Committee, detailed statements were laid before us—statements showing the deficiency which would arise from making Rs. 500 the maximum, the limit which was first

suggested. After consideration, we adopted the limit of Rs. 750. There must in some instances be some inequality in the incidence of this tax, but that is only one of the many difficulties which must be encountered in any attempt to impose differential taxation. From the figured statement in which the Rs. 750 limit was adopted and upon which this section was based, the sum required for the maintenance of the fire-brigade would be met if the rates therein mentioned were imposed to the extent therein allowed. We were assured by the Commissioner of Police, who from his intimate acquaintance of the matter could speak with authority, that the expenses of the fire-brigade are now ascertained and that there is no room for any great alteration. The Select Committee was assured that, with a maximum limit of Rs. 750 on warehouses and the levy of a quarter per cent. on bastis and one-and-a-half anna per cent. on pucca buildings, the expenses of the fire-brigade would be met. If the statements which had been submitted were correct, there will be a surplus over the expenses of the fire-brigade, and there will be no necessity of taxing these industries to the uttermost."

The Hon'ble Mr. Lee said:—"As a member of the Select Committee, I was opposed to any limit, and if I had correctly understood the responsibility attaching to a member who signed the Report, I would have recorded a dissent on this and other matters. It was as representing the views of the majority and because I did not wish to obtrude in a separate note of dissent my opinions in every point on which I disagreed with that majority, that I refrained from writing a note of dissent. I thought that Rs. 750 was a very much better limit than Rs. 500; but I could not but say, and say to the end, that, in my opinion, it is hardly fair to relieve the rich at the expense of the poor. The calculation which I have now heard from the hon'ble mover of the amendment seems to be quite clear that, the owners of small warehouses, whether of jute, hide, wood or coal, would pay, under the present drafting of the Bill, over 6 per cent. on the annual value; whilst the owners of exceptionally valuable warehouses, would pay less than 5 per cent. on the annual value. The maximum that can be levied on warehouses, is to be at the rate of 10 per cent. on the annual value, and it is not to exceed altogether one-half of the cost of the fire-brigade. As it is, we find that jute warehouses yielding 10 per cent. on the valuation are, in themselves, able to meet the whole cost of the fire-brigade. Here, as has been observed, they are not to pay more than half the

cost, and it results that nobody could pay more than 5 per cent., unless you bring some other controlling influence such as that which is brought in here. If the proposal of the learned Advocate-General, which was the first suggested, that no one should pay more than Rs. 100, then the poorer class of warehouses would have been, as the hon'ble member (Mr. Playfair) pointed out at the last meeting, most grossly and unfairly assessed in comparison with the rich. This limit of Rs. 750 would only lessen the unfairness, but will not remove it. I, therefore, hope I may be considered to have the liberty of voting with the hon'ble mover of the amendment."

The Hon'ble MR. PLAYFAIR said:—"I endorse the views expressed by the learned Advocate-General. I think the speech of the hon'ble member, the Chairman of the Corporation, is somewhat in accord with the views expressed by the minority at the meeting of this Council a week ago. We have already got a differential tax, and, as I said at the last meeting, we shall be taxing the owners of small warehouses more than the rich."

The Hon'ble MR. ALLEN said:—"The mover of this amendment has appealed to political economy and principles of taxation in support of his proposal, but the Chairman of the Corporation endorses this amendment on a new principle. It is this: that having got the jute industry, which hitherto has provided all the funds required for the fire-brigade, under their thumb, it should be kept there. But, Sir, the measure is in no sense one of taxation, and the only reason why I voted against the learned Advocate-General at the last meeting was, that the principle underlying this Bill is, that men who introduce a special danger into a community are bound to contribute towards neutralising that danger. The measure of contribution should be determined by the extent of the danger. So far from large jute warehouses and mills causing danger in proportion to their size and value, probably the exact opposite takes place, because the more valuable are better provided with means against the danger more or less incident to all jute warehouses. Therefore, it is not fair that, the more valuable properties should pay an unlimited rate to the full extent of their value. The value of a property should not enter into consideration, except to a limited extent. It is perfectly fair that the more dangerous class of warehouses, from which there is greater probability of fires, should pay as much. What has taken place in some municipalities, where jute mills and factories are located, is possibly known to more than one member of the Council present. If the 10

per cent. rate be allowed to run up according to the value without any limit, the effect will be simply to throw the whole charge on a few valuable warehouses and to exempt small ones."

The Hon'ble BABU GONESH CHUNDER CHUNDER in reply said:—"It seems to me that the argument of the learned Advocate-General, in opposing the present amendment, would apply very well if the question were one between inflammable trades on the one hand and other trades on the other, which would have to pay the tax. But these arguments cannot apply as between inflammable trades themselves. The question involved in this amendment is, whether or not there should be equality of taxation between those persons. If all the most valuable warehouses were provided with appliances for the prevention of fires, it would no doubt be a good ground for asking that they should not be taxed more than a certain amount; but as the Council understood from t he learned Advocate-General, when the last amendment was under consideration, that it so happens that, one warehouse provides itself with all kinds of appliances against fire while the adjoining warehouse has nothing of the kind. It would, therefore, be inequitable not to tax small and large warehouses on the same scale, or to limit the tax on large warehouses to a certain amount only. The Hon'ble Mr. Allen seems to think, that an unlimited rate of taxation would be imposed on the large warehouses; but it was not so, because the rate would be uniform. What is wanted is, that the same rate should be put upon all warehouses, irrespective of its value or condition. But, to impose a less rate of taxation on warehouses of large value and a higher rate on smaller warehouses, would be wrong principle."

The Motion being put, the Council divided:—

Ayes 5.	*Noes* 6.
The Hon'ble Maharajah Ravaneshwar Prosad Sing Bahadur.	The Hon'ble Mr. Playfair.
The Hon'ble Babu Gonesh Chunder Chunder.	The Hon'ble Mr. Wallis.
The Hon'ble Dr. Mahendra Lal Sircar.	The Hon'ble Mr. Lambert.
The Hon'ble Mr. Lee.	The Hon'ble Mr. Risley.
The Hon'ble Mr. Cotton.	The Hon'ble Mr. Allen.
	The Hon'ble Mr. Woodroffe

So the Motion was negatived.

[*Babu Gonesh Chunder Chunder; Mr. Lee.*]

The Hon'ble BABU GONESH CHUNDER CHUNDER also moved that, in line 5 of section 10, the word "seventy-five" be substituted for "fifty."

He said:—"As this amendment of mine is based upon the figures furnished to me by the Hon'ble Mr. Lee, I shall expect him to explain to the Council in detail those figures. I shall only content myself by pointing out to the Council that the Committee of 1891 recommended that, the whole of the expense of the fire-brigade should be met in this way, namely; 40 per cent. by jute warehouses, 20 per cent. by other inflammable articles, except hay, straw, wood and coal, 10 per cent. by hay, straw, wood and coal, and 30 per cent. by the Municipality. That was the recommendation of the Committee. The original Bill, which was based on those recommendations, provided that, 60 per cent. should be paid by jute, cotton and other inflammable articles, not including hay, straw, wood and coal, and that the remaining 40 per cent. be paid by the Municipality; the Municipality being entitled to recoup itself to the extent of 10 per cent. from hay, straw, wood and coal. The Select Committee, by their amended Bill, have taken away hay, straw, wood and coal from the Municipality and included them within the hazardous articles coming under the Act, and they have fixed the liability upon those articles at 50 per cent.; leaving the other 50 per cent. to be recovered from the Municipality: so that, in lieu of 70 per cent., the trade in hazardous goods will have to pay only 50 per cent.

"According to the figures in the Hon'ble Mr. Lee's statement, if jute and other hazardous articles enumerated in the Bill were made to pay 70 per cent. instead of 50 per cent., jute alone would pay Rs. 30,000 instead of Rs. 68,900, which they are now paying. I submit, therefore, that it would not be unreasonable to raise the rate from 50 per cent. to 75 per cent., to the relief of persons who are owners of other properties."

The Hon'ble MR. LEE said:—"None of us who had the pleasure of listening to the lucid speech with which the Hon'ble Member in charge of the Bill opened the proceedings last Saturday week, but must have been struck by the great discrepancy between his speech and the figured statement that accompanied it. The speech represented the views of the Select Committee. The figures, as I shall presently show, are at variance with the prevailing note that runs through the speech. The Hon'ble Mr. Cotton says:—

'It appeared to us that, in imposing a tax for the maintenance of a particular object, the fair and reasonable principle would be, to apportion that tax on different members of the community in proportion to the advantages which it is estimated they will gain from that object.'

"And later on, after explaining that the fire-brigade, at its present strength, is entirely due to that industry, he observed :—

'In the Report, which I now have the honour to lay on the table, we have stated that, we think that it is unfair to levy the whole rate on any one industry. At the same time I must distinctly affirm, that the fire-brigade was established in Calcutta in order to meet the requirements of the jute trade, and that the great majority of important fires occur, and always have occurred, in jute warehouses. If it were not for these jute warehouses, I do not hesitate to say that the maintenance of the fire-brigade, on anything like its present scale, would be unnecessary. I do not know whether I am justified in saying, that this City would be in a position to go back to the state of things which existed twenty years ago; but certain it is, that the brigade, in its present state of efficiency and completeness, would not be required. It is on account of the jute warehouses that the brigade is maintained in its present organisation. For these reasons, the majority of the Committee considered that, the jute industry should still continue to pay a large proportion of the funds required for the maintenance of the fire-brigade.'

"And then, in dealing with the contributions from other persons assessed to the fund, he observed :—

'The individual risk which any individual house-owner may run in this City may be infinitesimal. Residential house-owners in Calcutta do not insure their houses, either in the north of the town where the permanent residents of Calcutta mostly dwell, or in the south where European residents live; and I believe I am well within the truth in saying, that the insurance of houses and furniture in this City is practically unknown.'

"After a few more remarks, he observed :—

'The circumstances are amply sufficient to justify the Legislature in imposing a very low rate on the rate-payers at large to assist in meeting any deficit, which the other means of taxation, placed in the hands of the Municipality, may fail to supply. The protection which ordinary householders derive from fires not being allowed to spread may be inappreciable in any particular case, but it is obvious that such a general risk exists, and that it is at all times within possibility that fires may break out in residential houses.'

"Now, with such a statement as this, why is it that the demand made from the general fund to the account of the brigade is so heavy? If a considerable proportion is to be borne by the jute industry, it is of the same value as the water in the Irishman's peg—a thimbleful of the Rs. 41,600 to be levied in

Calcutta: the jute trade is to pay but Rs. 8,600! Taxes on other property are to pay Rs. 25,000, and Rs. 8,000 are to be drawn from warehouses of hay, straw, wood and coal.

"These latter now pay the Commissioners annually about Rs. 13,000, and we are to lose the odd Rs. 5,000—for what reason, I know not. Nobody asks for the reduction. Thus it will be seen, that the Commissioners suffer a loss of Rs. 38,000; for the general ratepayer, whether basti-owner or the owner of other property, is to pay Rs. 25,000, and the Rs. 13,000, now realized from hay, wood, straw, &c., depôts, is to be withdrawn from the Commissioners: Rs. 8,000 of it being paid to the Fire-brigade Fund, and the remainder dropped altogether. I say, therefore, that the speech of the hon'ble member is not in accord with his figures. Therefore, I feel myself entitled to oppose this provision of the Bill, though my name is to be found affixed to the Report which accompanied it.

"There is another reason, why I am entitled to press the amendment of the Hon'ble Babu Gonesh Chunder Chunder. I was under the impression, which impression turns out to be wrong, that the sum levied now from jute warehouses was pressing so hardly on them, that it had the effect of driving them from the City. That, I thought, would be an important fact. I should be extremely sorry to see any portion of the industry put out of an area which it otherwise would have chosen for itself. But I find that since the year 1872, there were in Calcutta 114 warehouses and in the Suburbs 52. They did diminish up to a certain point, but since the year 1888-89, I find that the numbers have been these: in Calcutta proper in 1888, there were 69 licensed warehouses; at the present moment, there are 80 in the town proper. In the suburban area in 1888, there were 112 warehouses. There came 25 of them to Calcutta at the time of the amalgamation. They have increased to 31. There were 73 of the 112 at Cossipore-Chitpore, and these have increased to 85; the balance (except one) are at Manicktollah: so that, the pressure on the jute industry of the existing taxation has not been oppressive to any perceptible degree, and it has not repressed the natural expansion of trade in Calcutta.

"As regards the figures which have been quoted by the hon'ble mover of the amendment, I would say that the sum of Rs. 68,900, levied from jute under the existing law, is perhaps comparable with Rs. 30,000 which his amendment would produce from jute. But I would prefer to compare the Rs. 30,000 with

Rs. 66,550, which is the amount of the direct license fees now levied. There are other extra assets of the Jute Fund which go to make up the Rs. 68,900, which is leviable and is being paid by jute. This will show that, if the Hon'ble Babu Gonesh Chunder Chunder's amendment be carried, the relief to the jute trade will be over 50 per cent. of the tax they are now paying, and that, I think, will be sufficient.

"But there is a further fact to bear in mind in connection with other warehouses. The fees shown, as leviable from these warehouses, are now over Rs. 14,000. The amount actually collected—and here I would draw the attention of the Hon'ble Mr. Playfair to the fact, that you must not confuse the amount leviable, whether by taxation on the general rate or from special industries, with the amount which actually comes into the coffers of the Corporation—is about Rs. 13,000, and if these rates now recommended be fixed, it will bring in from them about Rs. 12,000. The remainder will be a relief to those industries. But I know of no necessity for affording them any greater relief at the expense of the general rate-payer.

"I have claimed the support of the majority of the Select Committee to the present amendment, on the ground of true consistency with their views. The mere fact that the Bill, as it has been amended, will result in certain figures which the Hon'ble Member in charge of the Bill has laid before the Council, does not compel them to sanction those figures. We have seen, in respect of the last motion but one, that the Bill did not express the views of the majority of the Select Committee; and, similarly—I can speak of only one member of the majority—I venture to urge that the Bill, as now drafted, does not really represent the views of the majority."

The Hon'ble Mr. Cotton said:—"I am not surprised at the speech of my hon'ble friend the Chairman of the Corporation. I am not surprised that he should support the amendment moved by the Hon'ble Babu Gonesh Chunder Chunder. But I am somewhat surprised that, he considers that the opinion of the majority of the Select Committee coincide with his view on this subject There was no question more discussed, more disputed in Select Committee, than the proportion—the maximum proportion—of the expenses of the fire-brigade which should be leviable on account of licenses for warehouses; and, as I thought, it was unanimously agreed that, the amount should not exceed half, or as the Bill puts it 50 per cent., of the total amount. The Hon'ble Mr. Lee and the

Hon'ble Babu Gonesh Chunder Chunder represent, as in my humble judgment they are entitled if not bound to do, the opinions of the Calcutta Municipality. That Municipality is very largely interested in the discussions now going on in this Council, as well as the mercantile community so ably represented by the Hon'ble Mr. Playfair and the learned Advocate-General.

"I was obliged, as it appeared to me in the interests of fairness, to oppose the hon'ble members who represent the mercantile community in the proposal, which was brought forward last week, that, the whole burden of the fire-brigade should be borne by the general rate-payers; and to-day, I feel myself equally bound to oppose the motion brought forward on behalf of the general rate-payers, that is to say, that an unduly large proportion of the cost of the fire-brigade should be borne by certain special industries. When I find myself as it were between two fires—when I find that the line I have endeavoured to take up is attacked by the mercantile community on the one hand and by the Corporation on the other—I am more and more confirmed in the belief, that the middle course I have endeavoured to steer throughout these discussions is the safe and fair one. Certain it is that one of the main objects we have always had before us in our deliberations is, to relieve the jute industry from the undue burden which has been cast upon it in the past. The more I reflect over it the more I feel, that the jute trade has been unfairly taxed by the burden which it has borne for so many years, by not only maintaining the whole of the fire-brigade but the cost of the establishment maintained by the Municipality, of which a very considerable share has gone into the coffers of the Municipality; and also by the appropriation of considerable surplus funds paid by the jute industry, which have been devoted to local improvements in the town. Something like Rs. 1,26,000 has, as you have been told, been diverted from the Fire-brigade Fund in this way, and I do think the mercantile community have some cause for complaint; and this being so, I understand that the unanimous opinion of the Select Committee, which considered very carefully how far we could re-adjust and alleviate the burden now borne by the jute industry, was, that fees from warehouses should not exceed 50 per cent. of the funds required.

"We thought, and I hope you will by a decisive majority confirm our recommendation, that the license fees from warehouses, not only jute and cotton but also all those specially inflammable materials mentioned in clause (*9*) of section 3 of the Bill, taken together, should not contribute more than one-half of the amount required for the maintenance of the fire-brigade. This is one

of the most important principles in the Bill. If that is abrogated and set aside and it is decided that such fees should be maintained at the larger proportion of 75 per cent., then I hope the community, which have been so long agitating in this matter, will justly renew the complaints so often made. They are not, I am aware, satisfied with the particular proposals made in this Bill. No one, as I said before, will ever be satisfied when he is called upon to pay a rate, or tax or fee, or whatever it may be called. It devolves on the Legislature to impose these rates and fees with the greatest possible amount of fairness, and that is what we have endeavoured to do. The best proof of our success is, that both sides object. I attach very great importance to that fact. It is not at this stage of the Bill that I deem it necessary to detain you to show how largely the fire-brigade is used in extinguishing other fires than those from jute warehouses. My remarks under this head may be postponed, until we discuss the rates proposed to be levied on bastis and on the general community. I confine my remarks now to, what I consider to be, the injustice of raising the proposed fees to be levied on account of licenses from warehouses."

The Hon'ble MR. WOODROFFE said:—"Sir, it is with great pleasure I find myself at one with the Hon'ble Member in charge of the Bill on this occasion. The only point I take exception to is, that I do not claim the honour of representing the mercantile community. I was hitherto under the impression, that I occupied an entirely different position. But I would desire to add my voice to the observation which has fallen from the Hon'ble Mr. Cotton as to the suggestion that, the adoption of 75 per cent. would be in accordance with the principle which guided the Select Committee is without the slightest foundation. The matter was long and carefully discussed, and we arrived at the conclusion which is enunciated in the Bill, subject to the principle which was raised by the dissentient minority of the Select Committee. But once that principle was negatived in the Select Committee as it was negatived here, we proceeded on the principle, which the Hon'ble Mr. Cotton has affirmed, that a contribution not exceeding 50 per cent. from warehouses would be fair. In this particular instance, the mercantile community has adopted that middle course which so commends itself to the Hon'ble Member in charge of the Bill. The Hon'ble Mr. Playfair has not, I observe, moved any amendment to reduce the rate from 50 per cent. The principle once being accepted, I think it would be well, in any case in which the Select Committee has come to a unanimous

conclusion, that we should, as far as possible, avoid accepting any principle of a different character.

"The hon'ble mover of the amendment has referred to certain figures, which he says were laid before us by the Hon'ble Mr. Lee. I can only say that, I have not seen them. Those figures have not been, so far as I am aware, placed before the Council. I therefore support the Hon'ble Mr. Cotton in the view he has taken. The Hon'ble Mr. Lee spoke as if there had been a deprivation of the income the Corporation was entitled to in the shape of fees from hay, straw, wood and coal, depôts. It has been conceded that, these trades are not noxious trades. The only ground upon which fees upon them were levied was, the inflammable nature of those materials; and yet these fees, which were imposed year after year by the Corporation, were not devoted to the fire-brigade. For these reasons, I shall vote against the amendment."

The Motion was put and also negatived.

The Hon'ble BABU GONESH CHUNDER CHUNDER also moved that, section 20 be omitted.

He said:—"It seems to me, that the provisions of this section will be very hard and oppressive on the owners and occupiers of warehouses. Before I put forward any argument of my own, I would lay before the Council the Memorial of the National Chamber of Commerce. They said:—

'*Section* 20.—This is altogether new. It will be a fearful instrument of oppression in the hands of subordinate police officers and constables, and lead to frivolous prosecutions. It is an admitted fact, that the whole length of the Strand Road, from the Bonded Warehouse to Hatkholla, the whole of Burra Bazar, Jorabagan and Hatkholla, Komertolly, Chitpore and Belliaghatta, and other busy centres of trade and commerce, and all thoroughfares near godowns, are more or less blocked up with carts, and the right of public traffic is thereby obstructed. This is a necessary evil incidental to a large place of business like Calcutta; but no one has ever complained of such obstruction, or ever entertained the idea of prosecuting any member of the mercantile community for such an offence.'

"We all know that most of the existing jute warehouses have no separate places for loading and unloading carts, and that, notwithstanding this, licenses are given, and the result will be that they will be subject to daily prosecutions, because they will not be able to help themselves; and furthermore, I say that the provisions of this law will clash against the provisions of the Calcutta Police Act, IV of 1866, section 66, clause 7, which provides that 'whoever

causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose, shall be liable, on summary conviction, to punishment.' So that, under the provisions of this Act, people are allowed to keep their carts in public thoroughfares for the purpose of loading and unloading. It appears to me that, the provisions of section 20 of this Bill clash with the provisions of the Police Act; for the Police Act allows carts to be on the streets for the purpose of loading and unloading, whereas the present Bill would prohibit it. I therefore submit that, having regard to the fact that the Merchants represented by the National Chamber of Commerce raise the objection, this section ought to be omitted."

The Hon'ble MR. LAMBERT said :—"That the Council has heard from the Hon'ble Babu Gonesh Chunder Chunder that he brings this motion forward chiefly on behalf of the Bengal National Chamber of Commerce, but I cannot ascertain that any other public body has objected to this section. The letter of the Honorary Secretary of that Association says, that the section is altogether new. This is hardly a correct way of putting it. Clause 3, section 6, of Act IV of 1883, requires that, space be reserved for carts, and by section 14 of the Act, whoever breaks any conditions of the license renders himself liable to prosecution and fine up to Rs. 50. In the present Bill also, obstruction of a thoroughfare is made punishable, but the penalty is reduced to Rs. 10.

"Next it is said, that 'it will be a fearful instrument of oppression in the hands of subordinate police officers, and lead to frivolous prosecutions.' But this is not so. All that the subordinate police will be able to do, will be to report whether obstruction has been caused. Enquiry will follow, and no summons will be asked for unless, in the opinion of the Commissioner or Deputy Commissioner, a case is established The section confers no power of summary arrest. At present, the unfortunate cartman, and not the man for whose benefit the obstruction is caused, is punishable.

"Further, the letter says, that no one has complained of the want of any such provision. That is a mistake. Complaints are frequent and have been so for many years past. They come in from various sources, generally from the residents of the locality and from tradesmen, and in some cases from the Municipality. I have, in my hand, a list of cases of obstruction during the last six months from the Koomartolee Section. It shews, from August

1892 to January 1893, that 103 cartmen have been prosecuted, and six owners of jute warehouses were also successfully prosecuted for the same offence. Further, in his letter the Honorary Secretary says, that in all the busy parts of the town, streets are congested by traffic. This is true; but it is only in the locality of jute warehouses, that one or two owners appropriate a whole street for hours together by a long string of carts. The persons who are responsible for these obstructions ought to be easily reached, and that is the aim of section 20 of the Bill. If this section becomes law, rules will be provided for each locality by which the owners or occupiers of jute warehouses will know how to conduct their business without interference from the police, and the convenience of the public will also be recognized.

"It has been suggested that, this section of the Bill will clash with the Police Act; but it merely cannot be the intention of the Police Act, that whole strings of carts shall be allowed to stand on a street for hours together while loading and unloading. I apprehend it refers to one or two carts, and not to a long line of carts. I think that this section is wanted to show the owners of jute warehouses that they have a special liability, and that they should conform to such regulations as are required for each locality. As I said before, if this section becomes law, special regulations will be drawn up for each locality, and no punishment will be awarded so long as they comply with those regulations."

The Hon'ble MR. WOODROFFE said:—"The question, which is involved in this amendment, commends itself to me. The words used in this section are, 'whoever impairs or causes to be impaired the right of public traffic.' I do not read those words in the sense in which the hon'ble member the Commissioner of Police does. I take it, that roads are made for the public; nor am I aware that any person who has occasion to use carts on the roads in Calcutta, is restricted to the use of one cart at a time. All members of the public have a right to use any public road, subject to the use thereof by all other members of the public.

"The Bill provides that, space shall be reserved for the loading and unloading of carts on land appertaining to warehouses. That does not mean that, the public roads shall not be used by more than one cart at a time. Section 66, clause 7, of Act IV of 1866, imposes a fine upon any person who causes any cart to remain or stand longer than is necessary for loading or unloading, except in a place lawfully appointed for the purpose, so as to cause obstruction

in a thoroughfare. From the difference in opinion between the hon'ble mover of the amendment and the hon'ble member, the Commissioner of Police, it is evident that, this section (section 20) is read in a different light from what I understood in Committee. But seeing that the section is capable of the construction which the Commissioner of Police puts upon it, I shall support the hon'ble mover of the amendment. It was never understood that, the business of a warehouse should be stopped after each cart was unloaded and another cart fetched."

The Hon'ble MR. COTTON said:—"I think this question is by no means free from difficulty, and, for my own part, I am much influenced by the opinion expressed in the letter of the National Chamber of Commerce. It is true that the Municipal Commissioners were, in the early days of the Municipality, in the habit of granting licenses very freely for jute warehouses, and that in a very large number of cases, no provision whatever was made for cart space; that is to say, there was no space whatever within the premises where carts could enter and turn round. I conceive that the Municipal Commissioners erred in their discretion, in the interests of jute and commerce, and granted licenses more freely than was prudent. I have inspected some of these warehouses and have found the bulk of the carts loaded with jute waiting outside. That is a serious matter. I confess that the representation of the National Chamber of Commerce, has influenced me very much on this point. I had not realized until I read their Memorial and received a deputation of their members, how keenly this question would be felt; and I do think that the power of prosecuting the owners or occupiers of warehouses, under such an exceptional provision as this, should not be conferred without further deliberation. I can understand that a carriage or cart which blocks the way and will not move on when ordered by the police, may be run in, but I do not know, whether it will be wise or whether it could be justifiable to prosecute the owner or occupier of a warehouse under a penal provision of this kind.

"The section found its place in the Bill in this way. Under the old law, it was a condition of granting a license that, there should be sufficient space for the loading and unloading of carts. We have struck that out, and this penalty clause was put in, under which the owner or occupier of a warehouse may be fined if his carts block the way. I doubt whether, it was wise to omit the provision about cart space and provide this penalty clause instead. On

a full consideration of the objections taken by the National Chamber of Commerce, I think this Council would do well to accept the amendment of the Hon'ble Babu Gonesh Chunder Chunder and omit this provision, leaving all necessary action to clear away and maintain the thoroughfares to the police under the existing law."

The Hon'ble MR. WOODROFFE explained, in reference to what had fallen from the Hon'ble Mr. Cotton, that in section 6 a sub-section (*c*) was inserted, which required to be set forth in the application license "the space, if any, which has been reserved for the loading and unloading of carts", in order to show what space was left in the premises for carts to be brought in.

The Hon'ble MR. ALLEN said:—"I think that as this section has been inserted in the Bill, it will be much wiser to let it stand. The learned Advocate-General's principle seems to be that, any one who has a large business is at liberty to monopolise the streets. But there are individuals who have no business, and they are just as well entitled to pass through the streets. It is not the fact that a continuous string of carts is allowed in a street, for there is a bye-law in Calcutta which requires an open space to be left after a certain number of carts. The only persons who disregard this bye-law are the Government carts, and they apparently pay no respect to it. I understand, however, this section has rather reference to carts leaving the line and blocking the traffic while unloading. It will be for the Magistrate to construe its true meaning, and it may be as well to let it remain in the Bill."

The Hon'ble MR. PLAYFAIR said:—"This is a section in regard to which there was considerable discussion in the Select Committee. The traffic which is referred to is principally jute, and I think it will operate with hardship to the native jute merchants whose warehouses abut on the streets, and therefore I would support the amendment."

The Hon'ble THE PRESIDENT said:—"So far as the main principles of the Bill are concerned, that is, as regards the incidence and distribution of the taxation which is to supply the funds for keeping up the fire-brigade, I have declared my intention of not intervening in the debate or attempting to influence the decisions of the Council, and I adhere to that view. This, however, is a different

question relating to the administration of the Police regulations of the town, and although I desire fully to recognize what the Hon'ble Mr. Allen has said that, as a rule, the views of the Select Committee ought to be supported, yet as the matter had not been fully considered in the light put forward by the National Chamber of Commerce, the members of which would be chiefly affected by this provision, it comes under the category of a case upon which new light has been thrown since the redrafting of the Bill by the Select Committee; and as it is now pointed out, that police power already exists to maintain the proper regulation of the traffic in streets, it seems to me unnecessary that any special clause should be included in this Bill with the view of giving special powers for the regulation of any particular class of traffic. Therefore, I should advise the Council to support the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

The Motion was put and agreed to.

The Council adjourned to Saturday, the 4th March, 1893.

CALCUTTA;
The 16*th March*, 1893.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 1063G—300—20-3-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 *and* 25 *Vic., Cap.* 67.

The Council met at the Council Chamber on Saturday, the 4th March, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General.*

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE H. H. RISLEY, C.I.E.

The HON'BLE J. LAMBERT, C.I.E.

The HON'BLE H. LEE.

The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON'BLE A. H. WALLIS.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE P. PLAYFAIR.

The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

The HON'BLE MAHARAJAH RAVANESHWAR PROSAD SING BAHADUR.

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The Hon'ble MR. COTTON moved that the clauses of the Bill, for the regulation of Warehouses and the maintenance of a Fire-brigade, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble BABU GONESH CHUNDER CHUNDER said :—"As section 3 of the Bill was passed at the last meeting of the Council, I ask for special leave to move the following amendment:—

'That in clause (5) of section 3, the words *or mustard* be inserted after the word *linseed*.'"

The Hon'ble THE PRESIDENT said :—"As this is an amendment to remedy an oversight in a section already passed, sanction is given."

[*Babu Gonesh Chunder Chunder; Dr. Mahendra Lal Sircar; Mr. Cotton.*]

The Hon'ble BABU GONESH CHUNDER CHUNDER continued:—"At the last meeting, it was unanimously agreed that linseed-oil should be taken out of the operation of this Act. I move that mustard-oil be also taken out of it, on the ground that mustard-oil is less inflammable than linseed-oil. The Hon'ble Dr. Mahendra Lal Sircar will, I am confident, support the ground I have ventured to urge; and I do not think there are many places in this City in which mustard-oil is stored in large quantities. There is not much of an export trade in it, and the quantity of oil imported and made here is substantially less than the quantity of other oils brought here for the purposes of the export trade. Furthermore, mustard-oil is very largely used, especially by the poorer classes in these Provinces, in the preparation of their food, and an additional tax upon it will enhance its value and will ultimately have to be borne by its consumers."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"I have no hesitation in stating that mustard-oil is no more inflammable than linseed-oil, and I go further and say, that neither is castor-oil nor cocoanut-oil more inflammable than linseed-oil. They are, if at all, less inflammable than linseed-oil. It will require a very little amount of consideration to say, that their character is not inflammable. For these reasons, I do not see why the word 'oil' should be retained in the Bill, and I ask the permission of the President to move that clause (*5*) of section 3 be omitted, and that in clause (*9*) of the same section the word 'oil' be also omitted."

The Hon'ble MR. COTTON said:—"I concur in the proposal to add the word 'mustard-oil' 'to linseed-oil,' as being an article exempted from the operation of this Bill. But when cocoanut-oil and castor-oil are mentioned as being non-inflammable materials, I can only express my surprise. I was always under the impression that cocoanut-oil was largely used in the whole of this country in lighting *cherags* and *buttees*, which form the universal means of illumination in houses over the greater part of this country. It was certainly universal until petroleum was, in a great measure, substituted for cocoanut-oil. I should say that cocoanut-oil is, strictly speaking, inflammable and should be included among the substances to be kept in warehouses under the Bill; but I do not desire to oppose the Hon'ble Babu Gonesh Chunder Chunder's motion that, 'mustard-oil' should be excluded."

[*Mr. Lambert; Maulvi Syed Fazl Imam, Khan Bahadur; the President; Dr. Mahendra Lal Sircar; Mr. Lee.*]

The Hon'ble MR. LAMBERT said:—"I know of no large godown in the City which is used exclusively for the storage of mustard-oil; nor in my recollection has there been any fire in which the storing of mustard-oil in small quantities has caused any serious difficulty. No doubt, whenever fire breaks out in premises where oil of any kind is stored, the fire burns more fiercely and is much more difficult to extinguish. But as regards mustard-oil, I see no special reason why it should not be excluded from the operation of the Bill."

BENGAL SECRETARIAT LIBRARY.

The Hon'ble MAULVI SYED FAZL IMAM, KHAN BAHADUR, said:—"In my capacity of Vice-Chairman of the Patna Municipality, I have had long personal experience of places in which the oils which have been referred to are manufactured and stored in large quantities. There is no doubt, as has been observed by the Hon'ble Mr. Lee, that oils when once ignited prove a source of great danger, and that the flames do not admit of prompt extinguishing. Yet oils cannot possibly be compared to jute, cotton, straw, wood, &c., in the matter of inflammability; and when the Council has agreed to exempt linseed-oil from the operation of the Bill, I think there can be no objection to place mustard-oil on the same footing. For these reasons, I will support the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

The Motion was put and agreed to.

The Hon'ble THE PRESIDENT said:—"The Hon'ble Dr. Mahendra Lal Sircar has asked permission to move, as an amendment, that the whole of clause (*5*) of section 3, the definition of 'oil,' be omitted, and that the word 'oil' be also omitted from clause (*9*) of the same section. As we have already admitted a cognate amendment which was not strictly in order, I see no objection to this further amendment being put."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"My reason for proposing this amendment is, that in simple fairness we cannot retain castor-oil and cocoanut-oil among the articles which are to be subject to the operation of this Bill, if we exclude mustard-oil and linseed-oil. They are on the same footing, as far as the risk of fire is concerned, and if we exclude the latter, why should not we exclude the former also?"

The Hon'ble MR. LEE said:—"I believe, Sir, that the Commissioner of Police will be able to support me in saying, that it makes very little difference

what the oil stored be once the building catches fire. I think that if linseed-oil and mustard-oil are left out of the Bill, all oils should be left out—not only on the general principle which has been suggested, but also because it would be very inconvenient in working to have exceptions. It would be most inconvenient to have the different classes of oil divided, some as taxable and some as not taxable under this Act. An oil vendor has all kinds of oil. We are to exclude small quantities of assessable articles, and it would, therefore, be necessary for the officer appointed by the Commissioner of Police to inspect those warehouses and see what is taxable and what is not taxable; that he should make out a list showing so many canisters of linseed-oil, so much of mustard-oil and so much of cocoanut-oil, and unless he counts up the number of canisters of each kind of oil he would be unable to say whether it was taxable or not. The quantities of each kind of oil would vary from day to day, and it would be very difficult to say, in each case, whether it was a warehouse under the Act or it was not. I think it should be laid down in a manner clear and understandable. I, therefore, agree with the Hon'ble Dr. Mahendra Lal Sircar that, oil should be altogether omitted from clauses (*5*) and (*9*) of section 3."

The Hon'ble MR. LAMBERT said:—"It is very difficult to make out a stronger case against castor-oil and cocoanut-oil than as regards mustard-oil and linseed-oil, and, as far as I am aware, there are no large warehouses in this City used exclusively for the storage of any of these oils. Therefore, I agree to the proposed amendment."

The Motions were put and also agreed to.

The Hon'ble MR. LEE said:—"Before the business next on the List is proceeded with, I wish, with the permission of the President, to ask whether the amendment left undecided in the first part of section 10, which was moved by the Hon'ble Babu Gonesh Chunder Chunder at the last meeting of the Council, has been withdrawn?"

The Hon'ble THE PRESIDENT said:—"The Council has not yet reached the amendment to which the hon'ble member has referred. The Hon'ble Mr. Woodroffe has asked leave to introduce an amendment to section 9, by the addition of the words 'the proceedings of such Committee shall not be submitted to the Commissioners in meeting or be subject to revision by them.'

This is an amendment of which notice has not been given. But considering that it appears that, by an oversight, the section as it stands may have an effect which the Select Committee had not foreseen, and possibly the Council may not have foreseen, I will allow the amendment proposed by the Hon'ble Mr. Woodroffe to be brought on now."

The Hon'ble MR. WOODROFFE said:—"When section 9 was before them, the majority of the Council was in favour of vesting in a Special Committee, to be appointed by the Commissioners in meeting with the consent of the Chairman, the powers and discretion vested in the Chairman in regard to granting or withholding licenses for warehouses under this Act; that is, to say, the Council considered it desirable that, this matter should be placed in the hands of a small body of persons and should not be brought up for debate before a large unwieldy tribunal, such as the whole body of the Commissioners. Since that discussion, my attention has been called to the wording of section 66 of Act II of 1888, the Calcutta Municipal Consolidation Act, and it has been suggested that the proceedings of this Special Committee might thereunder be subject to revision by the Commissioners in meeting. For my own part, I do not think so; nor do I consider that the Committee, appointed under this Act, would be bound by any Resolution passed by the Commissioners in the matter. But however the decisions of the Special Committee, appointed under section 9 of this Act with the consent of the Chairman, be thought to be subject to revision and to be brought up for discussion and debate, prolonged it may be for a very considerable period of time, it is desirable so to amend this section that there shall be no room for a contention which, if successful, would, in some cases at least, render the investigations which might be made and the decision which might be arrived at by the Special Committee, simply labour lost. I, therefore, move that section 9 be amended, by the addition of the words 'the proceedings of such Committee shall not be submitted to the Commissioners in meeting or be subject to revision by them, at the end of that section."

The Hon'ble MR. COTTON said:—"I think this is emphatically a proposal of which notice should have been given. It appears to me to be a matter of very great importance, that a proposal should be sprung upon us at the eleventh hour, setting aside a principle which has been definitely established by an Act of the Legislature. By section 56 of Act II of 1888, it is laid down that, the action of Committees is subject to confirmation by a general meeting of

the Commissioners. This is emphatically one of those principles which establishes the principle of Local Self-Government, dealing with local affairs in this Metropolis. The proposal of the learned Advocate-General entirely sets aside this important principle, and if it is to be adequately discussed at a meeting of this Council, I think we should have received notice of it beforehand. The Bill, as it is before the Council, places the grant of licenses in the hands of the Chairman of the Commissioners. It removes this power from the Commissioners in whose hands the power was formerly vested, but it authorizes the Commissioners, with the consent of the Chairman, to appoint a small Committee to consider applications for licenses. The law, as it now stands in the Bill before you, whittles away the power of the Commissioners to the very smallest possible extent—to a far larger extent than I think is wise or proper. The learned Advocate-General informs you that, by a large majority, this revision in the law was carried. I think myself that it was a comparatively small majority. But be that as it may, there is no doubt that the Bill, as drafted, deprives the Municipal Commissioners of Calcutta of a very valuable privilege. The proposal led to a very unmerited and unjust attack upon the Commissioners by a member of this Council. [The Hon'ble THE PRESIDENT said:—"I must ask the hon'ble member to withdraw the word 'unjust.' It appears to me to be a term which should not be applied by one member of this Council to another."] In deference to the President, I withdraw the word 'unjust', although it expresses no more than my own personal feelings on the subject. The Hon'ble Mr. Allen is a Master of flouts and gibes and loses no opportunity of girding at one time, at the High Court; at another time, at the Calcutta Commissioners, and at another time, at this Hon'ble Council itself. [The Hon'ble THE PRESIDENT said:—"I must ask the hon'ble member to confine himself to what is before the Council. I think it very undesirable and a very unfortunate thing, if occasion is taken, in proceedings like these, to bring forward occurrences which took place two years ago, and which we all wish to forget. We are not here for personal debate; we are deciding the question, whether an amendment should be agreed to or not, and I must again ask the hon'ble member to confine himself to the question before us."] The Hon'ble Mr. Allen indulged in a long diatribe upon the conduct of the Municipal Commissioners of Calcutta. [The Hon'ble THE PRESIDENT said:—"I must again point out to the hon'ble member that we are not discussing what the Hon'ble Mr. Allen said; we are discussing a particular question, whether a particular amendment should be made in a particular section

of the Bill before the House."] If this provision is added to the Bill, it will materially impair the powers of the Commissioners. I think that time should be allowed to the Council to consider the effect of the proposal."

The Hon'ble THE PRESIDENT said:—"The President has, under the Rules, the power of admitting amendments of which notice has not been given, and I have admitted this amendment under the impression that it corrects a mistake which had occurred, and will set things practically in the position in which they were supposed to be placed when the Select Committee passed the draft of the Bill which we are now considering. If it is a fact that the Select Committee had before them, when this section was considered and agreed to by them, the possibility that, the decision of the Special Committee under section 9 might be subject to the general consideration of the Commissioners in meeting and to revision by them, and if it was their intention that it should be so subject, then it is obvious that what has fallen from my hon'ble friend Mr. Cotton, is a matter of very considerable importance, and therefore time should be allowed for the consideration of an amendment which would alter the intention of the Select Committee. But if the Select Committee did not anticipate or intend such a result, then the amendment merely carries out their objects and involves no change in principle. I think, therefore, under such circumstances, that it will be better to put the question to the House. The Council knows how far they understood that the Special Committee were to be authorized under section 9 to give a final decision, and how far they were under the impression that the decision of the Special Committee would be subject to revision under section 66 of the Municipal Act by the Commissioners at large. Those who understood the ninth section to imply a final decision on the part of the Special Committee would, perhaps, consider that we might proceed at once to the consideration of the amendment, which only clears away any doubt as to that intention. Those who consider that a new principle has been introduced will, probably, desire that it should be deferred for the next meeting of the Council. I therefore ask the Council whether, they will consider this amendment to-day or postpone it to the next meeting of the Council."

The opinion of the Council was taken, and it was resolved by a majority of votes that the consideration of the amendment should proceed to-day.

The Hon'ble MR. LEE said:—"I had two reasons for voting that the consideration of this matter had better stand over till next Saturday. One was,

that there seems to be some heat in the atmosphere; the other, that I had a proposal which I hoped would have met the wishes of all, and that, therefore, this particular amendment might have been withdrawn in favour of another. The Bill, if passed now, would have an effect that was not wanted by those who advocated the passing of section 9 in its present form. It is more or less by an accident, I consider, that it was passed. It was rather, I think, in opposition to the amendment which was moved by the Hon'ble Babu Gonesh Chunder Chunder and in disapproval of my remarks thereon, than by way of expression of their own views, that the votes were recorded by a small majority last Saturday. I am sure it was not the wish of that majority, that licenses for hay, wood, straw and coal should form the subjects of debate before a Standing Committee; that in all these cases, opinions should be recorded in shorthand and the proceedings reported to the Commissioners, as they would have to be, and published. There are no less than 343 woodyards in Calcutta, and every one of these has to take out a license. The power of licensing wood godowns is vested in the Commissioners; and as I tried to explain last Saturday, but failed to convey to hon'ble members, the result is, that the licensing of these warehouses for wood, hay, straw, coal, rags, bamboos, tallow and wax is dealt with as routine work by the Chairman. There is a section of the Act, which I thought would have been present in the minds of hon'ble members, that vests in the Chairman the powers of the Commissioners subject to control in meeting; therefore, the business is done with expedition when routine matters are left to the Commissioners. But, if such routine matters are to be made over to the Standing Committee, I say surely, that you will waste a great deal of time. The fact was remarked upon by Your Honour in the Resolution on last year's Administration Report of the Calcutta Municipality that, there are no less than 280 meetings of the Commissioners, either in Committee or in general or special meeting last year—more meetings than there are working days, or as many. It is now proposed to add another Committee, which would have to deal with the licenses of 343 wood warehouses, 86 straw warehouses, 20 bamboo warehouses, 26 coal warehouses, 10 tallow and wax warehouses, and 111 jute warehouses. Therefore, I regret, Sir, that this motion, which has been somewhat suddenly brought forward, could not have been postponed until next Saturday. I venture to hope that, if this motion be lost now, it will not be a bar to a proposal being brought forward next Saturday, which will restore the work to a reasonable groove. For these reasons, I must record my opinion against the amendment."

The Hon'ble MR. ALLEN said:—"It appears to me that there is some misapprehension about the learned Advocate-General's amendment, and that it is absolutely unnecessary. It is perfectly true that the Commissioners, acting under the powers conferred upon them by Act II of 1888, have the right of controlling in meeting all special Committees, and also their Chairman, when they deal with matters provided for in that Act; but surely this Bill is quite outside anything covered by Act II of 1888. It provides for a special service for a special purpose, and it throws the responsibility of granting certain licenses on the Chairman of the Commissioners of Calcutta. I cannot conceive that, under those general powers of Act II of 1888, the Commissioners would have any power to interfere with their Chairman, when he acts under the authority of this Bill on a business totally outside anything dealt with in Act II of 1888. Then we have a section, No. 9, allowing the Commissioners, with the consent of the Chairman, to appoint a Special Committee to exercise the powers which, by this Bill, are given to the Chairman. Suppose, that an Act for the prevention of contagious diseases throws on the Chairman the functions of visitor to a lock hospital, could it be pretended that the Commissioners in meeting were entitled to control their Chairman in the discharge of his duty as visitor? Just as little right have they to control him in the discharge of his functions under this Act. Such being the case, the proceedings of the Special Committee, appointed with the consent of the Chairman and called into existence to discharge the functions thrown upon him, are just as much beyond the control of the Commissioners as the Chairman himself would be in the exercise of those powers. The Special Committee merely takes the place of the Chairman. Therefore, it appears to me, and I understand that the learned Advocate-General is disposed to hold the same opinion, that the amendment which he has now brought forward in no way alters the law, and that it is merely brought forward for the sake of obviating a baseless claim, which might otherwise be made."

The Hon'ble MR. WOODROFFE in reply said:—"Sir, the Hon'ble Mr. Allen has correctly appreciated the motives which led me to propose this amendment, and I regret to find myself in this matter not in accord with the Hon'ble Member in charge of the Bill. I think he has not correctly appreciated the position. As far as I understand the Bill, now before the Council, there are special duties imposed on the Chairman of the Commissioners under sections 5, 6, 7 and 8. These are, as it appears to me, outside the powers which the Chairman of the

Commissioners exercises under the Calcutta Municipal Consolidation Act. But coming to know that there is a contention, which has now been emphasized in this Council, that these powers are to be taken to be subject to the general provisions of the Municipal Act, it occurred to me that it is desirable to place before the Council such an amendment as should prevent such a question being raised. In my opinion, there will not be taken away by my amendment any of the powers which the Municipal Commissioners now possess. It does not appear to me that they could contend, regard being had to the language of the Municipal Act, that by exercising the powers vested in him by this Bill for the granting or refusal of licenses, the Chairman would be exercising the powers of the Commissioners as defined in the Municipal Act; or that the Special Committee, appointed under section 9 with the consent of the Chairman to exercise the powers and the discretion of the Chairman under this Act, would be a Committee within the meaning of the Municipal Act. But I think it is desirable, when one finds that such questions may arise and may cause debate, to set the matter at rest by positive enactment. The proposed amendment, in this view, makes no reference to Act II of 1888 or to the Mufassal Municipal Act of 1884. I move it simply to give effect to what I, for one, understand to be the view taken by this Council that, when a Special Committee exercises the powers of the Chairman under this Act, their action is not a matter which can or ought to be brought before the Commissioners in meeting. Had I thought that the matter stood as the Hon'ble Member in charge of the Bill has suggested, namely, the removal of powers possessed by the Commissioners in meeting, I should myself have postponed this amendment until the matter had been placed before hon'ble members of Council. It is, because I understood and still understand that there is not that question involved in this amendment, that I now bring forward this amendment."

The Motion being put, the Council divided:—

Ayes 6.

The Hon'ble Mr. Playfair.
The Hon'ble Mr. Wallis.
The Hon'ble Mr. Lambert.
The Hon'ble Mr. Risley.
The Hon'ble Mr. Allen.
The Hon'ble Mr. Woodroffe.

Noes 6.

The Hon'ble Maharajah Raveneshwar Prosad Sing Bahadur.
The Hon'ble Maulvi Syed Fazl Imam, Khan Bahadur.
The Hon'ble Babu Gonesh Chunder Chunder.
The Hon'ble Dr. Mahendra Lal Sircar.
The Hon'ble Mr. Lee.
The Hon'ble Mr. Cotton.

The Hon'ble THE PRESIDENT said:—"The votes of the Council, excluding myself, are equal. It is therefore incumbent on me to vote. The reason why I give my vote with the *Ayes* is, that it seems quite clear, from what has fallen from the Hon'ble the Legal Remembrancer and the Hon'ble the Advocate-General, that the effect of the amendment is merely to set at rest a possible interpretation of the law, which is not the right interpretation, and we thereby save the public and the municipality from unnecessary legal proceedings and contentions."

The Hon'ble the President having recorded his vote with the *Ayes*, the Motion was carried.

The Hon'ble MR. LEE said:—"The question I wish to ask is, has the notice of amendment moved by the Hon'ble Babu Gonesh Chunder Chunder with reference to section 10, concerning which the learned Advocate-General and the Hon'ble the Legal Remembrancer have notices of motion on the paper, been withdrawn? I ask this, because I do not find it in the List of Business, and without that amendment being before us, the Council is in a position in which it cannot, if so minded, express an opinion that the intentions of the Select Committee should be carried out. If both the learned Advocate-General and the Hon'ble Mr. Allen's amendments are lost, what would be the result? Can we then vote on the proposal of the Hon'ble Babu Gonesh Chunder Chunder, which is not in the List of Business and which was not voted upon at the last meeting, and of the withdrawal of which we have not received notice?"

The Hon'ble THE PRESIDENT said:—"I understand from the Secretary that the Hon'ble Babu Gonesh Chunder Chunder's motion, which was postponed at the last meeting for consideration of an amendment which the Hon'ble Mr. Allen adumbrated and which he had not formulated, has not been withdrawn. Therefore, if the amendments of the Hon'ble Mr. Allen and the Hon'ble the Advocate-General are lost, I shall be prepared to put the amendment of the Hon'ble Babu Gonesh Chunder Chunder."

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motion of which he had given notice that, for the first paragraph of section 10, the following be substituted:—

'The annual fee payable in respect of any license shall not exceed ten per centum per annum on the value of the warehouse, as it is assessed to the payment of the municipal taxes,

less five per centum on the original outlay incurred in respect of the means and appliances, therein or appertaining thereto, for preventing or extinguishing fire, and less the annual expenditure incurred in or about the repairing, adding to, maintaining and working the same. Such annual expenditure to be taken to be the expenditure incurred in or about such repairing, adding to, maintaining and working during the preceding years.'

He said:—"I was induced, by some observations which fell from hon'ble members opposite on the last occasion, to bring forward this amendment; but I have since discovered, from figures laid before me, that there would be no relief whatever given to those proprietors of warehouses who have expended money on fire-extinguishing appliances, if only 5 per cent. were allowed on such expenditure."

The Hon'ble MR. ALLEN said:—"From what has fallen from the learned Advocate-General and from what I learn from the gentleman who represents the commercial interests of Calcutta, I understand that the practical effect of this amendment will be almost nothing, and it is, therefore, only on the ground of theoretical propriety that I bring forward the proposal which stands in my name. The hon'ble member opposite, on the last occasion, proposed to make 5 per cent. the allowance to be deducted from the outlay on appliances for extinguishing fires, with which jute presses and warehouses are furnished. But, as some expense may be incurred of a recurring nature in keeping the original block in repair and also in providing the means of working those appliances, I then draw a distinction between fixed outlay and recurring expenses; and in accordance with your suggestion, Sir, this amendment has been formulated, and I now leave it to the Council. I propose that, for the first paragraph of section 10, the following be substituted:—

'The annual fee payable in respect of any license shall not exceed ten per centum per annum on the annual value of the warehouse, as it is assessed to the payment of the municipal taxes, less the annual outlay (including five per centum on the first cost of all fire-engines, pumps and other appliances) incurred in respect of the means for preventing and extinguishing fires.' "

The Hon'ble MR. PLAYFAIR said:—"I think some misconception exists, regarding the cost of private fire extinguishing appliances in relation to the municipal assessment of properties; and that, if the providing of such appliances is to be encouraged, section 10 must stand as it had been drafted by the Select Committee.

[*Mr. Playfair.*]

"I find that 14 of the more important press-houses, representing a capital valuation of about 62½ lakhs of rupees and with a municipal assessment of Rs. 3,12,050, are equipped with fire-extinguishing appliances, costing Rs. 99,006. If this latter sum of Rs. 99,006 is to be deducted from the municipal assessment, it is probable that three of the smaller press-houses might be reduced in taxation to the extent of Rs. 480 per annum. The remainder and larger press-houses would receive no benefit. But if the value of the fire-extinguishing appliances is to be deducted from the capital valuation of 62½ lakhs of rupees, as we suggested at the last meeting of the Council, not one of the 14 press-houses will obtain any relief in taxation on account of having fire-extinguishing appliances of its own, and each may be taxed Rs. 750, making a total of Rs. 10,020. Likewise, as 5 per cent. of the value of these appliances would represent a very small sum, the deduction of this amount from the municipal assessment, before ascertaining the tax to be levied for the fire-brigade, would be of no advantage. The amendments before the Council would, therefore, do away with the benefit intended to be obtainable by those who protect themselves and their neighbours, in having appliances of their own for the purpose of controlling fires. On the other hand, if the cost of the fire-extinguishing appliances were to be deducted from the municipal assessment, some of the smaller press companies might reap some benefit; for, in instances, such cost represents a larger percentage on the municipal assessment of these smaller works, than is the cost of appliances at the larger works in relation to the municipal assessment of the larger works.

"It is probable that some of the smaller press-house companies, having appliances of their own, may be relieved of taxation to the extent of 1 to 1½ per cent. of the municipal assessment by the provisions of section 10 as it stands. These are the persons, to whom I referred on a previous occasion, as likely to be taxed to the extent of 6 per cent. of the municipal assessment; while their more influential neighbours in the trade may be called upon to pay only one and a half per cent. under the proposed system of differential taxation. The claims of the smaller trader may, in this respect, merit the consideration of the Council. I understand it to be the intention of the Legislature that, all traders in hazardous goods should be encouraged to minimise the risk of fire within their premises by adopting methods for the prevention and the control of fires, and that section 10 was drafted by the Select Committee with this object. The amendments now before the Council would

stultify this intention. The hon'ble member, who proposed a similar amendment at the last sitting of the Council, feared lest an owner of a hazardous article might become exempt from taxation in having fire-extinguishing appliances of greater capital value than the municipal assessment of his promises, and I ask why should he not be exempt? Why should the owner of large works having a small godown, holding, for instance, tar or tallow, or resin, or any other article specified in clause (*9*) of section 3, be troubled and further burdened with the fire-brigade tax, when he keeps on his premises fire-brigade appliances capable of protecting the whole of his works, and fit to douse this single godown at a moment's notice?

"It is evident to my mind, Sir, that if the provision of private fire-extinguishing appliances is to merit reduction in taxation, section 10 must stand as it has been presented by the Select Committee."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"I cannot support the amendment which has been proposed by the Hon'ble Mr. Allen, for, if it is carried, it will add a great deal to the complications which already exist in the working of the Bill. In addressing the Council on the last occasion, I stated that, it would be reasonable to allow such warehouses deductions from the annual assessment of their premises of 5 per cent. on the cost of the outlay for appliances for extinguishing fires. It is now sought to add to that 5 per cent. the outlay incurred in respect of the means of preventing and extinguishing fires. If this amendment is allowed to be introduced in the Bill, the result will certainly be this: somebody would have to decide, what is reasonable and what is not reasonable outlay for the particular warehouse. There is nothing in the Bill to indicate, who would decide that. Suppose, a particular house chooses to expend Rs. 100 a month, or Rs. 1,200 a year, for the expenses of keeping up the appliances, who will decide whether such expenses are reasonable or not reasonable for the purpose? Then, again, there would be nothing in the Act to give the Commissioners power to enquire into the subject of the outlay by each warehouse. The result would be, that the Commissioners would be placed in a position which would compel them to accept whatever statement of outlay may be furnished to them by the owners of warehouses, and to deduct whatever amount they may choose to pay from the annual assessment. I venture to think, Sir, that it will be complicating the Act to a very great extent if a general provision like this be introduced, namely, that in

addition to 5 per cent. on the cost of all fittings, &c., the owners of warehouses shall be allowed to deduct the annual outlay which they will incur in keeping up the appliances. I cannot, therefore, support the amendment of the Hon'ble Mr. Allen; and when the proper time comes, I will bring in my original motion, the further consideration of which was postponed at the last meeting."

The Hon'ble MR. LEE said:—"I should have much pleasure in supporting the amendment of the Hon'ble Mr. Allen, were it not that a better one is coming forward in that of the Hon'ble Babu Gonesh Chunder Chunder. I understand that the only difference between the two is, that the Hon'ble Mr. Allen's amendment will allow a deduction, for what are called recurring expenses, of an uncertain nature and amount. The result of passing this amendment would be, the reverse of what was intended when the idea was adumbrated. It will have the effect of throwing more taxation on jute warehouses than they have now. That is my opinion as to how it would actually work out. That, as the Council is aware, I do not think would be in itself inequitable, but it would be at the cost of a greater inequity. Difficulties would occur in respect of straw depôts, hay depôts and wood depôts, when the calculation came to be made regarding the license fee payable, as to what deduction should be allowed for recurring expenses for the prevention of fires. In jute warehouses, it would doubtless be decided that a portion of their establishment, engaged in the general work of the warehouse, should be charged to the maintenance and supervision of the fire-appliances. A certain percentage of the establishment would be so charged. The same principle would have to be applied when we come to timber yards and straw depôts. It is the practice in almost all straw depôts and timber yards to keep a certain number of *ghurrahs* of water. Somebody has to keep them filled with water; and it will be urged before the Standing Committee with considerable force that, a share of the establishment of each timber yard and straw depôt should be debited to recurring expenses for the prevention of fire. Now, under the Bill, a sum of Rs. 5,679 will be collected from 343 depôts, and that comes to about Rs. 17 a year from each on the average. One chaukidar or other servant will get from Rs. 6 to Rs. 10 a month —the least amount —and it will be a very small proportion of his pay that will have to be debited to the prevention of fire, to wipe out the whole of these fees now recovered or recoverable under the Bill from wood depôts. The same would be the result as to straw

depôts, and the same result as regards other warehouses; and what could not be recovered from them, would have to be recovered from jute warehouses up to 50 per cent. of the cost of the fire-brigade. The learned Advocate-General shakes his head, and I am at a loss to see why. The Bill says distinctly, that the Municipal Commissioners can recover from warehouses of all kinds 50 per cent. of the cost of the fire-brigade. If, then, hay, wood, straw and other warehouses contribute nothing, it seems to follow, as a matter of course, that the 50 per cent. will all be subscribed by jute warehouses. I think that would not in itself be inequitable, but I see no reason why other warehouses, which were before paying Rs. 13,000 a year, should only pay Rs. 8,000 under this Bill; while it would be more inequitable still that they should be exempted altogether. So that for practical reasons, I would much prefer the amendment which is about to be moved by the Hon'ble Babu Gonesh Chunder Chunder, and for that reason, I shall vote against the amendment of the Hon'ble Mr. Allen."

The Hon'ble MR. WOODROFFE said:—"As already indicated, from what I said when I asked for leave to withdraw the amendment which stood in my name, I find myself unable to support the Hon'ble Mr. Allen's amendment, and I wish to explain a little more in detail, why I do so. I believe it will be found that, when this section came before the Council on the last occasion, the proceedings which then took place and which led to the Hon'ble Mr. Allen's formulating this amendment, showed that there was some considerable misunderstanding as to what the meaning of the section is. I gathered that some of the hon'ble members opposite supposed that, from the amount of the annual license-fee, it was intended to take the whole of the value incurred in respect of the appliances for preventing and extinguishing fires; whereas, the section does not do so. Section 10, as I read it, provides that, from the annual value as it is assessed to municipal rates, there shall be taken the outlay incurred on such appliances, and that upon the difference there shall be assessed a rate not exceeding 10 per cent.

"I have in my hand the details of the largest press-houses which were referred to by the Hon'ble Mr. Playfair, and from a perusal of these it will be seen that if, as suggested by the Hon'ble Mr. Allen in this amendment, there be only taken from the amount of the license-fee 5 per cent. on the first cost of all the fire-engines, &c., incurred in respect of preventing or extinguishing fires, not one large press-house or warehouse in this City will derive

any advantage from the cost incurred in providing such appliances for protecting his premises from fire, and in so doing, protecting his neighbours; whereas, if the Bill stands as it does at present and as it left the hands of the Select Committee, there will be an advantage given to the smaller warehouses. I will illustrate my meaning by the figures to which I referred. Messrs. Ralli Brothers are one of the largest press-owners in this City, and the municipal assessment on their premises is Rs. 45,000. That is the annual value, and on that, the rate is struck; and but for the fact that this Council has fixed the limit of Rs. 750, than which there shall not be a larger license-fee paid, they would have to pay a fee of Rs. 4,500 a year. Those Merchants have, however, laid out on fire-extinguishing appliances no less a sum than Rs. 36,640. Deducting that sum of Rs. 36,640 from Rs. 45,000, there remains Rs. 8,360; and if the Rs. 750 limit had not been passed, they would have had to pay a fee of Rs. 830. The consequence is, that this firm does not gain one single anna by the great service which they have rendered to the community at large in protecting themselves from the risk of fire. Practically, they have expended a sum equal to the annual value of the premises, and yet they gain no advantage. The next on the list is the Union Press Company, whose municipal assessment is Rs. 34,100. They have laid out Rs. 9,000 in fire-extinguishing appliances, the balance is Rs. 25,100; and they also are only to be protected by the Rs. 750 limit. The Strand Bank Press Company has laid out in fire-extinguishing appliances Rs. 7,500 upon an annual assessment of Rs. 33,500, leaving a balance of Rs. 26,000; they, therefore, also gain nothing. The Golabarry Press, which is in the hands of Messrs. Finlay, Muir and Company, have expended Rs. 3,500 as against a valuation of Rs. 24,000; they, therefore, also would gain nothing. It is not until you come to the smaller presses that any advantage is gained by leaving the Bill as it is, and consequently no advantage will be secured if the Hon'ble Mr. Allen's amendment were carried.

"Take, for instance, Watson's Press, the assessment upon which is Rs. 12,800, and the fire-extinguishing appliances cost Rs. 7,000. That reduces the assessable value to Rs. 5,800, and they would therefore gain an advantage of Rs. 170 per annum. The Canal Press has a municipal assessment of Rs. 12,400, with an outlay of Rs. 7,500, thus reducing the assessable value to Rs. 4,900; they would, therefore, only pay Rs. 490 for the fire-brigade and gain Rs. 260. Nasmith's Press, with an assessment of Rs. 12,000, has

laid out Rs. 5,000, thereby reducing the assessable value to Rs. 7,000; they, therefore, obtain relief to the extent of Rs. 50. Similarly, as I understand, when you go down lower in the grade, the advantage of the Bill, as it left the Select Committee, will be felt by those to whom I understand hon'ble members generally are in favour of granting relief, namely the smaller men.

"There is not a man, out of the fourteen largest press owners, who gains the sum of one rupee even by the deduction from the total assessable value of the total amount laid out on appliances. It is only when you come down to the smaller men that any advantage is obtained. If you demolish the provision of section 10, as it stands in the Bill, and deduct instead 5 per cent. on the annual outlay and recurring expenses, there will be no relief gained at all; and it will come to this that, in the opinion of this Council, there is a premium held out to those who lay out nothing in self-protection, and by self-protection protect also their neighbours: whereas, every encouragement should be given to persons in this City who, by protection of their own property from fire, afford protection to their neighbours. I would, therefore, ask the Hon'ble Member in charge of the Bill to consider the figures which have been submitted to me.

"It is for these reasons, that I find myself unable to support the Hon'ble Mr. Allen's amendment. It is conceived with the best intentions, and I doubt not that to a certain extent it is due to the imperfect information laid before the Council, which gave it the idea that under the Bill, as it stands, the larger presses would get off scot-free. Whereas, I find that such will by no means be the case; and if 5 per cent. upon the outlay only be allowed, even the smaller presses will gain nothing from any expenditure which they may have made upon fire-extinguishing appliances.

"With reference to what has fallen from the Hon'ble Babu Gonesh Chunder Chunder, it does not seem a reasonable construction of the Bill that, the Chairman of the Commissioners or the Special Committee are bound to admit the claim made in regard to the cost of appliances."

The Hon'ble MR. COTTON said:—"I have considered the statement which has been placed in my hands by the learned Advocate-General, but I regret to say, it does not impress me so strongly as it has done my hon'ble friend.

The reason why this proposed amendment in the Bill would practically have no effect, in the case of these large warehouses, is, that they have already gained so enormously by the decision to which the Council arrived at the last meeting of limiting the maximum to be paid by any warehouse to Rs. 750. A warehouse which is now paying Rs. 4,500 a year will, under this Bill, not be liable to pay more than Rs. 750. It is difficult to conceive a greater gain than that, short of remitting them from the payment of all license fees altogether. Hon'ble Members will remember that an amendment, to strike out of the Bill the limit of Rs. 750, was rejected. If it had been carried, there might have been more cogency in the learned Advocate-General's arguments; but, as the Bill stands, they have no effect whatever, because the larger warehouses on behalf of which they were urged are already amply protected by limiting the maximum to Rs. 750. But, when we are dealing with the somewhat smaller warehouses, it is then that the provision now proposed would act so unfairly. Assuming a small warehouse to be worth the annual value of Rs. 500, that is to say, that its capitalised value is Rs. 10,000 and the annual value Rs. 500, the assessment upon it would be one-tenth, or Rs. 50 a year. The owner of that warehouse would, if the provision now put forward be passed into law, merely have to spend Rs. 50 towards protection from fire, to be exempted from all taxation under the Act. As I read the meaning of the provision, that would be the effect of such an outlay. It is to prevent anomalies of this kind that the Hon'ble Babu Gonesh Chunder Chunder moved his amendment that, 5 per cent. upon the outlay incurred in respect of fire-extinguishing appliances should be deducted, and not that the capital outlay incurred should be deducted. It seems to me that that amendment is a very fair and reasonable one, and I hope the Council will accept it."

The Hon'ble Mr. Allen in reply said:—"I think it unnecessary for me to take up any time with a reply. The whole discussion is entirely academical; it has travelled so utterly into cloud land that one would think it was in the island of Laputa it was being held. Practically, the charge on the larger warehouses is a flea-bite. They are so amply protected by the Rs. 750 limit that, even if a much larger percentage were deducted it would have no effect. In the learned Advocate-General's speech, there was a constant confusion between the value which is subject to assessment and the capitalised value. The annual value of Messrs. Ralli Brothers' press-house, for instance, is Rs. 45,000; the

cost of appliances, Rs. 35,000, which should be deducted not from the annual value but from the capitalised value. So that, even if ten, twenty or a much larger percentage is allowed, there will be no result to any of the fifteen large European press-houses."

The Motion was put and negatived.

The Hon'ble the President called upon the Hon'ble Babu Gonesh Chunder Chunder to move the amendment, the further consideration of which was postponed at the last meeting of the Council; and at the same time mentioned that the Hon'ble the Advocate-General, with His Honour's permission, proposed to bring forward an alternative amendment, by substituting the words "ten per cent." for "five per cent." in the Hon'ble Babu Gonesh Chunder Chunder's amendment.

The Hon'ble BABU GONESH CHUNDER CHUNDER moved the further consideration of his motion that, in line 5 of section 10, the words "five per cent. on" be inserted after the word "less."

He said:—"The reasons for this amendment I laid before the Council on the last occasion, and I do not think there is any necessity for repeating them. I shall only make one remark, namely, that, from the discussions which have taken place to-day on the amendment of the Hon'ble Mr. Allen, it appears quite clear that, by reason of the maximum limit of Rs. 750, the provisions of this section, if it is amended as suggested by me, would have no application to those warehouses which would, but for that limit, have to pay a license fee of more than Rs. 750 on a 10 per cent. rate on the annual value; because, in their case, whatever deductions might be made on account of the provision of fire-extinguishing appliances, the result would make no difference to them: as in the case, put by the learned Advocate-General, of Messrs. Ralli Brothers, where their press-house is assessed at the annual value of Rs. 45,000, and the entire cost of the outlay for appliances is Rs. 36,640. There, whether you deduct 5 per cent. or 20 per cent. or 30 per cent., it would make no difference; because, under the maximum limit, they would not have to pay more than Rs. 750. According to my amendment, if a limit of Rs. 750 was not fixed, the result in their case would be this: 5 per cent. on Rs. 36,640 would be in round numbers Rs. 1,830, the amount to be deducted from Rs. 45,000, and on the balance of Rs. 43,170, a tax at 10 per cent. would have to be paid, amounting to Rs. 4,317; but, under the maximum rule, they would not be taxed more than

Rs. 750. Therefore, whether you take a percentage upon the value of the fire-appliances or allow a deduction of the whole of that value, it would make no difference to them. But, in other cases, where the amount of the tax to be paid would be under the limit of Rs. 750, there, whether you deduct a percentage on the cost of fire-extinguishing appliances or the whole of such cost, it would make *every* difference.

"For, as in the case put by the Hon'ble Mr. Cotton, suppose the annual value of a warehouse were Rs. 500, its capitalised value being Rs. 10,000, it would not be too much to spend Rs. 500 on the appliances; and if the whole of such sum were deducted from the annual value, there would be no tax to pay. It would be against all principle to deduct the whole sum from the annual value, because you would have to do it year after year, and so, by spending the sum of Rs. 500 once, the warehouse would be exempted from all payment of tax whatever; not that he would be allowed to deduct it once, but you would have to do it year after year. I do not think it was ever the intention that a person, who spent in providing fire-extinguishing appliances a sum equal to the value of the annual assessment, should be exempted from the payment of all tax for ever. It would make no difference on the larger warehouses, whose license fee exceeds Rs. 750; but it would certainly make a great deal of difference to those whose fees were less than that maximum sum. Therefore, a percentage only can be taken, and I do not think 5 per cent. is a very unreasonable percentage to allow. In the case of the small warehouse put by the Hon'ble Mr. Cotton, a reasonable reduction which the proprietor can expect is 5 per cent. on Rs. 500, that is, Rs 25; and the tax would have to be assessed on Rs. 500 minus Rs. 25, which would be Rs. 475."

The Hon'ble Mr. Woodroffe said:—"There is no doubt that, as the matter stands, it has been made clear, from what has fallen in the preceding debate, that large jute presses will gain no advantage whatever from large sums of money spent in providing fire-extinguishing appliances, and for that reason, I shall be obliged to record my vote against the amendment before the Council. I do not know whether I shall be in order, in reference to what has fallen from the President, in bringing forward an alternative amendment that, instead of 5 per cent., a deduction be made of 10 per cent. on the cost of fire-extinguishing appliances."

[*The President; Mr. Woodroffe; Mr. Lee; Dr. Mahendra Lal Sircar.*]

The Hon'ble THE PRESIDENT said:—"I will ask the Hon'ble the Advocate-General to bring forward the amendment which he proposes, and I would ask the House to vote on both the amendments simultaneously, unless hon'ble members consider that course inconvenient."

The Hon'ble MR. WOODROFFE then moved, by way of amendment, that "ten per cent." be substituted for "five per cent".

He said:—"I hold in my hands a statement which was furnished to the Select Committee, either by the Hon'ble Mr. Lee or the Hon'ble Member in charge of the Bill, showing what would be the reduction on account of fire-appliances if the reduction were taken at 5 per cent. upon the cost, and what does the Council suppose this extraordinary concession amounts to? In the whole of Calcutta, it will amount to Rs. 620; and if baled jute were further excluded, there would be an additional Rs. 758-8-9. Therefore if the amendment of the hon'ble member is carried, then it comes to the question whether, the deduction should be 5 per cent. or 10 per cent.? Ten per cent. would give a certain measure of relief—and, as I understand, a material measure of relief—to the smaller warehouses, but nothing whatever to the larger warehouses and presses; still, in the interests of those smaller warehouses, I venture to put it to the Council that, it will be proper to make an allowance of 10 per cent. on the outlay for appliances for preventing and extinguishing fires and not 5 per cent."

The Hon'ble MR. LEE said:—"I will vote with the learned Advocate-General, as I think his amendment will have the effect of relieving the smaller rather than the larger warehouses."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"In my opinion, every encouragement should be given to warehouses for making provision for extinguishing fires, and as I myself intended to bring forward the amendment which has been moved by the learned Advocate-General, I will support his motion."

The Hon'ble Babu Gonesh Chunder Chunder's amendment, as modified by the amendment moved by the Hon'ble Mr. Woodroffe, was put and agreed to.

[*Mr. Cotton.*]

The Hon'ble MR. COTTON said:—"Sir, with your permission obtained at the last meeting of the Council, I have the honour to move the amendment which stands against my name in respect of section 12 of the Bill. It is necessary for me briefly to explain the history of this section. As the law now stands, and as the Council are aware, licenses are granted by the Municipal Commissioners, and the same law, which we are now repealing, empowers the Municipal Commissioners to cancel or suspend the licenses of any warehouses. The complete power of cancelling and suspending licenses, as well as of granting them, rests under the existing law with the Municipal Commissioners. The power of granting licenses has been modified in accordance with the provisions of this Bill. The Bill proposes a further modification in respect of the procedure to be followed in suspending or cancelling such licenses—a very much less important matter, I may say. As a fact, I do not believe that, during the many years the Municipal Commissioners have administered this provision of the law, there has been any case in which they have cancelled a license. If there have been any such cases, they have been very few and far between; and this I know cannot be one of the matters in which the members of the Council would allege that, the Commissioners have abused their powers. But as the power of granting licenses has been taken from them, it follows that the procedure for cancelling and suspending licenses must also be modified.

"Under the existing law, the Commissioners have the power of cancelling or suspending licenses in respect of which one or more of the conditions under which the license is held appear to have been broken, and also if the owner of a warehouse neglects to give notice of a change of occupation. And so it came to pass that, when the present Bill was being drafted and modifications in the procedure were agreed on, it was enacted that, whenever the Chairman of the Commissioners receives credible information that any of the conditions to which the license of a warehouse may be subject has been broken, he may apply in writing to the Magistrate, and, after proving his case and satisfying the Magistrate that such cancelment or suspension is necessary to prevent danger or injury, the Magistrate will then try the case judicially and decide whether the license shall be suspended or cancelled, or not. But, Sir, I apprehend that in the Select Committee the fact was lost sight of, that the conditions of the license are materially changed. Under the existing law, a number of conditions are imposed which find no place in the present Bill, with the exception of two only: one is, that a warehouse shall be liable to inspection; the other is, that the annual fee

shall be payable in respect of it. The other conditions have found their place as substantive offences to which penalties are attached under Chapter III of the Act, while one or two of the conditions have been relegated to the category of details to be specified in the application for a license; and, if they are furnished in a way considered unsatisfactory by the Chairman, the application may be refused. There is no doubt that the first of the two conditions which remain in the Bill, namely, that the warehouses should be open to inspection, is a very important one, and that, if broken, it should render the license liable to be suspended or cancelled, as the case may be. But there are also other offences which may be committed by the owners of warehouses, such, for instance, as the offence specified in section 19 of the Bill, which imposes a penalty for preparing inflammable substances and exposing them on the roof of a building—one of the principal causes of fires in jute warehouses. If an offence of that character is committed, then it is eminently desirable that the license should be cancelled. This was one of the conditions under the old Act. It is no longer a condition, but is provided for as an offence with a penalty; and it seems to me that, in respect of this and other offences which may be committed by the owner of a warehouse, the Chairman of the Commissioners should be competent to move the Magistrate to adopt the procedure laid down in the Bill under this Act for offences committed under Chapter III.

"I may take this opportunity of drawing the attention of the Council to the fact that the duty, of instituting prosecutions under the law, is one which no longer rests with the Chairman of the Commissioners or with the Commissioners in meeting. At present, under the existing law, the Inspector of Jute Warehouses is a servant of the Corporation. He is the executive officer responsible for seeing that the conditions of the license are complied with and for bringing to notice offences committed under this Act, and for instituting prosecutions before the Magistrate. At present, therefore, prosecutions are instituted by a subordinate of the Commissioners and with their authority. Under the Bill, as it is drafted by the Select Committee, the Inspecting Officer will be an officer to be appointed by the Commissioner of Police. He shall be a member of the Fire-brigade, but shall not be a member of any Police Force. He will, however, be under the orders and at the disposal of the Commissioner of Police. The executive control of warehouses passes from the Chairman of the Corporation to the Commissioner of Police.

And therefore it is that this section 12, as proposed to be amended by me, is so drafted that, whenever the Chairman of the Commissioners receives credible information that a condition of the license has been broken or that an offence is committed, he is authorized to lay this information before a Magistrate, with a view to applying for the cancelment or suspension of the license. This information would, in the first instance, be communicated to the Chairman by the Commissioner of Police through the Jute Inspector, and the Chairman will then be in a position to move the Magistrate to take the judicial procedure contemplated by section 12 for suspending or cancelling a license.

"With this explanation, Sir, I have the honour to move that, in sub-section (*1*) of section 12, after the words 'has been broken by the holder thereof' the words 'or that any offence for which a penalty is prescribed under Chapter III of this Act has been committed by any holder of a license' be inserted."

The Hon'ble Mr. Woodroffe said:—"I rise to support the Bill as it left the hands of the Select Committee. The conclusion, at which they arrived, was not obtained without considerable discussion and as much consideration as the members of the Select Committee could bring to bear upon it, and the conclusion to which they arrived was, that the matters and things dealt with in the clauses relating to procedure are not matters which justified the suspension or cancellation of licenses; but are properly and sufficiently dealt with by imposing pecuniary penalties. The penalties, if hon'ble members will take the trouble to look at the Bill, are by no means light. In truth, the Hon'ble Member in charge of the Bill desires to impose a double punishment; so that, persons who commit any of the offences for which penalties are prescribed would be liable, in addition to those very serious pecuniary results, to cancellation or suspension of their licenses. The hon'ble member's proposed amendment is, I take it, intended to include offences under section 17, neglecting to notify change in occupation of warehouse; under section 18, giving false information respecting a license; under section 19, to which the hon'ble member referred, where the owner or occupier of a warehouse preparing or causing to be prepared or dried any inflammable substance on the roof of a warehouse, is liable to Rs. 50; under section 21, using warehouse as a residence; under section 22, for bringing or using matches or artificial lights, and under

section 23, smoking in a warehouse—offences which were liable to a penalty of Rs. 10. Persons committing any of the above offences would not only be liable to the very serious penalties provided in the Bill, but, under the hon'ble member's amendment, be liable to have their licenses cancelled or suspended.

"I venture to submit to the Council that the conclusion, arrived at by the Select Committee, should not be so materially altered as the hon'ble member proposes to do by his motion. I ask, therefore, that the Council should uphold the clause as it left the Select Committee. That clause deals with matters in respect of which licenses may be cancelled or suspended. The conditions on which they are held are set out in the license. They are (*1*) the non-payment of the license fee, and (2) that which goes to the root of the whole matter, namely, the slightest attempt to prevent due and proper inspection by the officer appointed for the purpose. For the breach of these conditions, the Select Committee thought more severe measures should be resorted to, namely, the suspension or cancellation of the license."

The Hon'ble MR. LEE said:—"While I think, Sir, that there ought to be some such power as exists now under the Fire-Brigade Act for the revocation of the licenses of habitual offenders, I cannot agree with the Hon'ble Member in charge of the Bill that, the duty of conducting prosecutions should be thrown on the Chairman of the Commissioners. There is no provision in this Bill to enable him to meet the expenses of criminal proceedings, and I do not know why they should be met from the general Sanitary Funds of this City."

The Hon'ble MR. WOODROFFE rose to order and asked the President if it was relevant to the motion, whether the expenses of criminal proceedings should fall on the Corporation?

The Hon'ble MR. LEE said:—"That is the reason why I am unable to support the hon'ble mover of the amendment, in that it throws upon the Chairman of the Corporation the duty of prosecuting offenders, with the view of cancelling their licenses. It has been explained by the Hon'ble Member in charge of the Bill that, the inspection of warehouses has been removed from the hands of the Commissioner to those of the Commissioner of Police. If, then, any prosecutions are to be undertaken, let the Commissioner of Police pay for them."

The Hon'ble THE PRESIDENT said:—"With regard to the call to order by the Hon'ble the Advocate-General, the objection which the Hon'ble Mr. Lee has taken seems to me to be an objection which he has a right to take, though I hardly see that it applies. If in his opinion the amendment would throw extra expenditure on the Chairman of the Corporation, it seems to me that he is not out of order in taking that objection."

The Hon'ble MR. LEE continued:—"Yes, Sir, this amendment if passed would throw extra expenses upon the Chairman of the Corporation, the expenses of the law Courts. It would be necessary for him to proceed when offences are committed under Chapter III of the Bill. It would occasionally be incumbent upon him to take proceedings under section 12, which he would not have to take as the Bill now reads. I think there is some slight misapprehension, for I am not sure whether I understand the learned Advocate-General right in saying that, any person who commits the offences mentioned in sections 17, 18, 19, 21, 22 or 23 will be liable to have his license revoked or suspended. I do not find it so provided anywhere. [The Hon'ble MR. WOODROFFE said:—"I did not suggest that. I said, that if the hon'ble member's amendment be carried it might have that effect."] For this pecuniary reason, then, I record my vote against the motion."

The Hon'ble MR. LAMBERT said:—"It seems to me, as regards the matter which has fallen from the Hon'ble Mr. Lee regarding the cost of prosecutions, that no such cost will fall on the Commissioners. Section 12 merely applies to occasions in which the Chairman of the Commissioners may receive credible information, and that credible information will, I apprehend, be given to him generally by the Inspector of Warehouses. All that would be required of the Chairman of the Commissioners would be to determine, on receipt of information from the Inspector, whether he found it necessary to apply to the Magistrate for an order to suspend or cancel a license. If the information seemed to him to be sufficient, he would instruct the Inspector to apply to the Magistrate, and then the case would be proceeded with. If he considered the information insufficient, no further action would take place.

"As regards the motion now before the Council, it seems to me that section 12, as it now stands, limits the class of offences for which a license may be cancelled to a refusal to admit the Inspecting officer, or for declining to pay the

annual fee. The probability, of the institution of prosecutions on either of these grounds, is hardly worth considering. Regarding offences under the penalty clauses, by clause (*2*) of section 12 it is provided that, the Magistrate shall not make an order suspending such license unless he is satisfied that it is necessary to prevent or obviate immediate danger or injury of a serious character. Even the discretion of the Magistrate is fettered by this clause. And it certainly seems to me that the offence, for which a penalty is provided in section 19, which has been referred to, may possibly be of so dangerous a character that on a proper representation to the Chairman he might think it necessary that the license be suspended; and the Magistrate, in exercising his discretion under clause (*2*) of section 12, might think it necessary to pass an order to prevent immediate danger. On these grounds, I shall support the amendment of the Hon'ble Member in charge of the Bill."

The Hon'ble MR. PLAYFAIR said:—"This is a section which was very carefully considered by the Select Committee, and I support the section as amended by the Select Committee and the views set forth by the learned Advocate-General."

The Hon'ble MR. COTTON in reply said:—"I have only a word or two to say in reply. I can sympathise with the feelings of the learned Advocate-General and of the Hon'ble Mr. Playfair, in desiring to give every protection to the owners of warehouses against having their licenses arbitrarily cancelled. I think, however, that there is very little risk of that in any case, because, as I observed to you just now, I doubt whether there is a record of any license having been cancelled by the Commissioners, but it is possible that the Chairman of the Corporation might desire to cancel a license. In such a case, it will obviously be impossible for him to act in an improper way, owing to the extremely elaborate procedure which this Bill lays down. He must make a written statement, which is laid before a Magistrate; the Magistrate would then issue a summons to the owner of a warehouse and would then try the case judicially, and even then, he would not grant the order applied for by the Chairman unless he is satisfied that it is necessary to do so to prevent immediate danger or injury. I can hardly conceive of a procedure which is more elaborate and more calculated to prevent the arbitrary cancellation or suspension of a license.

"With regard to the financial difficulty, to which the Hon'ble Mr. Lee referred, I must say it seems to me to be visionary. Under section 27 of the Bill which is so drafted as to cover any legitimate charge against the funds of the fire-brigade, if any expense is incurred by the Chairman of the Commissioners in instituting cases under section 12 of the Act, it would legitimately fall on such funds. But I agree with the Hon'ble the Commissioner of Police that, such charges would be infinitesimal.

"At the suggestion of the President, I will propose a verbal amendment in the motion I am laying before the Council, by specifying the sections of Chapter III referred to. I would add the words and figures 'or to any offence for which a penalty is prescribed under sections 17, 19, 21, 22 and 23 of this Act has been committed by any holder of a license.' "

The Hon'ble THE PRESIDENT said:—"This is a motion which affects a question belonging to the police or the judicial side of the business, and therefore the restriction I imposed upon myself of not expressing my views as regards any question of imposition or distribution of taxation, does not apply, and I think it well that I should make one or two remarks on the subject. The proposal is, that the penalty, which the Select Committee imposed on certain offences, should be considerably enhanced by the addition of the possible suspension or cancellation of the license. In one of these cases (section 17), I observe that the penalty which is provided by the existing law has been reduced from Rs. 100 to Rs. 10, and, therefore, it would seem as if an enhancement of the penalty would be contrary to the intention of the Select Committee. If, in its discretion, the Select Committee in addition to the provision that the Magistrate may impose a penalty of so many rupees a day as long as the offence continues, had added a clause that, in the event of the offence being continued or repeated on (say) three occasions, the license may be suspended or cancelled, I should have seen no objection to that legislation. But as the Select Committee have not done that, and as no new or strong reason has been given in favour of the amendment, I fall back on the canon, that the general rule we should follow is, that where no new light or no new considerations have been brought forward, it is well to support the Bill as it has been amended by the Select Committee; therefore it is, that I am opposed to the motion."

The original Motion being put, the Council divided :—

Ayes 2.	*Noes* 10.
The Hon'ble Mr. Lambert.	The Hon'ble Maharajah Ravaneshwar Prosad Sing Bahadur.
The Hon'ble Mr. Cotton.	The Hon'ble Maulvi Syed Fazl Imam, Khan Bahadur.
	The Hon'ble Mr. Playfair.
	The Hon'ble Babu Gonesh Chunder Chunder.
	The Hon'ble Mr. Wallis.
	The Hon'ble Dr. Mahendra Lal Sircar.
	The Hon'ble Mr. Lee.
	The Hon'ble Mr. Risley.
	The Hon'ble Mr. Allen.
	The Hon'ble Mr. Woodroffe.

So the Motion was negatived.

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motions of which he had given notice that, in sub-section (*1*) of section 12, after the words "upon the holder of the license" the words "and in the case of an alleged breach of any of the conditions of the license" be inserted; also that after the words "be cancelled or suspended" the words "and in the case of the alleged commission by such holder of any such offence to show cause why the penalty prescribed for such offence should not be imposed upon him" be inserted, and that after the words "and may also" the words "in the first of the cases above mentioned" be also inserted.

The Hon'ble BABU GONESH CHUNDER CHUNDER moved that, in sections 22 and 23, after the word "warehouse" the words "used for the pressing or screwing of jute or cotton" be inserted.

He said:—"If you read sections 22 and 23 with section 21, it would appear that there is a prohibition against using as a residence a warehouse for jute or cotton only. The question is, whether it is possible to use a warehouse as a human residence without taking therein matches or artificial lights unless duly and thoroughly protected, or without smoking therein. I submit that if it is intended that a warehouse, other than a jute or cotton

warehouse, should be allowed to be used as a human residence, then those restrictions should not be put upon them. But if that is not the intention, then the words which I propose should be inserted in this section."

The Hon'ble MR. WOODROFFE said:—"As a matter of fact, I believe the words to which the hon'ble member has referred were omitted by mistake, and it appears to me that there is full reason for the suggestion he has made. But the question arises, whether the omission is covered by the definition of 'warehouse' in section 3, clause (*9*), which is as follows:—

'*Warehouse* means any building or place used for the storing, or pressing, or keeping of jute, cotton, oil, resin, varnish, pitch, tar, coir, hay, straw, rags, tallow, ship-chandlery, wood or other inflammable substance or thing for the time being subject to the operation of this Act.'

"And there may be a question, whether a warehouse which is used for nine months of a year only as a warehouse should be subject to any penalties? I would suggest, by way of amendment, that the words 'if jute or cotton be then stored therein' be inserted after the words 'jute or cotton' in the Hon'ble Babu Gonesh Chunder Chunder's amendment."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"If this Bill is passed, then hay and straw depôts will become warehouses. I know for certain that the abominable *hookah* has been the cause of many dangerous fires, and I think that *hookahs* should not be allowed to be introduced into warehouses."

The Hon'ble BABU GONESH CHUNDER CHUNDER in reply said:—"There is no law to prevent artificial lights and matches from being used in hay and straw godowns, and it will be very hard to introduce such a provision into the Bill. Probably, the owners do not live in them, but other people live there. The number of warehouses under the Act has been increased to a great extent, and it will be hard not to allow their being used as residences."

The Hon'ble MR. LEE asked if he would be out of order, if he proposed to add "straw" and "hay" to the motion? It would be in accordance with the precedent followed in the case of "oil."

The Hon'ble THE PRESIDENT said:—"I wish to point out to the Council the extreme inconvenience of springing upon the Council motions of this kind. I think I shall not be going beyond my proper position if I ask the Council

seriously to consider, before coming to this Chamber, what they are going to move, so that, it should be possible for them to hand in in writing the motion which they intend to propose before the discussion begins. In this case, two of the speakers have generally declared their unwillingness to include hay and straw depôts in these punitive provisions, and now one member desires that they should be included. I think it very inconvenient that such amendments should be brought forward in the middle of the discussion, when it was in the power of hon'ble members to bring them forward earlier, so that they might be placed on the List. I think it right to decline to allow this motion to be put before the House."

The Hon'ble Babu Gonesh Chunder Chunder's amendment, as modified by the amendment moved by the Hon'ble Mr. Woodroffe, was put and agreed to.

The Hon'ble MR. WOODROFFE, by leave of the Council, withdrew the motions of which he had given notice that, in section 25, the words "shall rateably impose the annual fees payable for licenses under section ten of this Act upon all warehouses, and" be omitted; also that in line 7, for the word "such" the word "the" be substituted, and that after the word "fees" the words "payable for a license under section ten of this Act" be inserted.

The Hon'ble MR. WALLIS moved that, in line 1 of section 26, for the word "may" the word "shall" be substituted.

He said:—"Although Rule 42 provides that, amendments shall ordinarily be considered in the order of the clauses to which they respectively relate, I would beg, in moving the first amendment which stands in my name, to be allowed to refer to the other two amendments which I am to move and which appear in the same section of the Bill. The object, which it is desired to attain, is identical in each case, and the amendments will of course only be put to the Council in the order in which they appear on the List of Business.

"The first amendment, which I have the honour to move, is in line 1 of section 26, that for the word 'may' the word 'shall' be substituted.

"The objects, which it is desired to attain by the amendments which I have the honour to move, are, that the half per cent. rate on bastis and the one-eighth per cent. rate on the annual value of all houses and lands assessed under the provisions of the Bengal Municipal Act of 1884 and the Calcutta Municipal Consolidation Act II of 1888, as provided in the Bill, shall be levied in full and shall form the basis of taxation for the up-keep of the fire-brigade.

"In support of this view, I would like to refer to the Report of the Select Committee in which the following remarks occur:—

'In view of the primary responsibility imposed upon the Commissioners, we have, by section 26 of the amended Bill, while exempting the owners or occupiers of a warehouse licensed under the Bill from further liability empowered the Commissioners to levy the three following rates:—

(*a*) a two and-a-half per cent. rate assessed on buildings or places, used for the storage of inflammable substances, which the Government may declare liable to the payment of this rate; the amount, however, to be levied in any one case not to exceed Rs. 100:

(*b*) a half per cent. rate assessed on basti lands:

(*c*) a general one-eighth per cent. rate on all houses and lands assessed under the Municipal Acts affecting the municipalities concerned.'

"It will be remembered by the Hon'ble Member in charge of this Bill and also by the other members of the Select Committee, that at the several meetings when this question of apportioning the mode of differential taxation was considered, on each occasion I pressed that the proper way to proceed was, to first decide what portion of the cost of the brigade should be met by the general tax-payer; this, I urged, would give a known quantity, as it would be levied on the rates and taxes, and any balance required should be rateably imposed on the industries coming under the definition of warehouses and other buildings for the storage of goods of a less inflammable class.

"I hold in my hand, Sir, a paper in original, which I took to several of the meetings of the Select Committee and which I handed to the Hon'ble Mr. Cotton and to the learned Advocate-General. This paper shows, Sir, that I assumed the cost of the brigade to be a maximum of Rs. 75,000. It suggests, *first*, that a rate of $\frac{1}{8}$ or 2 annas per cent. should be levied on all houses and lands as they are assessed for municipal taxation, and I took roughly the value of such houses and lands as Rs. 1,80,00,000, which would realize about Rs. 22,500; and, *secondly*, that a rate of $\frac{1}{2}$ or 8 annas per cent. should be levied on all basti lands, which taken at Rs. 31,16,563, the valuation given by the Hon'ble Mr. Lee on the 19th of December, would realize about Rs. 15,000: or a total of Rs. 37,500.

"I think, Sir, I may venture to say that it was very much on the lines suggested that the Committee came to a decision as to the form of taxation which should be adopted, and in agreeing to the section of the Bill which is numbered 26 and to the clauses (*b*) and (*c*) of that section, I certainly thought that they could not possibly be construed in any other way; but I find from the statement, which was handed to hon'ble members at the meeting of the 4th of February, that at the foot of that statement the rate on bastis is taken at 4 annas per cent., and that on pucca buildings at one-and-a-half annas per cent. According to my views, and I think some of my colleagues are of the same opinion, this is wholly contrary to what we anticipated, as we were under the impression that the basis of taxation was to be the charging of a rate of 8 annas per cent. on bastis and a two-anna per cent. rate on the general tax-payer.

"As shown in my original paper, the sum which would be realized from this form of taxation amounted to Rs. 37,500, and this works out very closely if the valuation of bastis and houses given us by the Hon'ble Mr. Cotton are taken. I find the statement shows that bastis are valued at Rs. 31,14,616, which at 8 annas per cent. would realize Rs. 15,572; that the valuation of pucca buildings is given at Rs. 1,51,39,953, which at 2 annas per cent. would realize Rs. 18,924. To this was added receipts under section 26, clause 1(*a*), Rs. 750. Then we have to take receipts from rates levied from Cossipore-Chitpore, Rs. 500; from Manicktollah, Rs. 100, and from Howrah, Rs. 1,000, or a total of Rs. 36,846, as against Rs. 37,500, estimated by me some time ago when the question of taxation was being considered in Select Committee.

"I have taken all the figures given in the statement as correct, and I think the closeness of my estimate and that of the figures just stated show clearly what was the intention of the Committee; but the statement referred to reverses the order of things and proposes that only a certain portion of the rate leviable under the Bill on bastis and on the general tax-payer shall be taken, and still leaves the larger share to be borne by the industries coming under the definition of 'warehouses.'

"One of the main objects for which legislation has been resorted to in this instance was, the reduction of existing taxation on the jute industry and for the more equitable distribution of taxation for the up-keep of the brigade. I do not

anticipate that the rate of 2 annas per cent. to be levied on the general tax-payer will be objected to by any of the members of this Council, as it has been admitted on all sides that, the general public do undoubtedly derive considerable benefit from the brigade. The tax of 8 annas per cent. on bastis is not excessive, considering the danger these places offer, and the difficulty which is experienced in preventing fires occurring in these places from spreading.

"It is perfectly true that the residents of such places belong to the poorest classes; but the proposed taxation is small, and it is better that they should pay a small sum annually for the up-keep of an institution which may some day be the means of saving all the property they possess in the world.

"I was glad to learn from the speech made by my colleague the Hon'ble Babu Gonesh Chunder Chunder, at the meeting of the Council held on the 18th of February last, that he, too, read the clauses (*b*) and (*c*) as I take them; for, if I understand him rightly, he gave us his reason for voting for an all-round rate, that the inhabitants of bastis would only, under that proposal, be called upon to pay a tax equal to a quarter per cent. instead of half per cent., as provided in the Bill. For the reasons stated, I beg to move that, in line 1 of section 26, for the word 'may' the word 'shall' besubstituted."

The Hon'ble Mr. Cotton said:—"It appears to me that this amendment is open to objection on the principle which you yourself, Sir, prominently brought to the notice of the Council a few minutes ago, namely, that it introduces a radical change in the Bill, as approved by the Select Committee, and has been introduced into this Council without any new considerations having been urged on behalf of it. If there were no other reason than this, I would ask you to use your influence in rejecting this amendment; for I think, as it is now put by the hon'ble member, this amendment deals very hardly and unfairly by the rate-payers of this City. There is a very wide difference between 'may' and 'shall.'

"The intention of the Select Committee–I speak for myself only, but I understood it to be their general opinion–was, that the rates introduced into this Bill should be the maximum rates which might be worked up to on an emergency. I never understood that, it was to be compulsory on the Municipal

Commissioners to impose these rates either on basti owners or on the general community; and I think it is desirable that the votes of the Council, on a matter vitally affecting the interests of the rate-payers of this Metropolis and materially affecting the Municipal Commissioners of the City, should not be taken until the Commissioners themselves have had an opportunity of expressing their views on this compulsory taxation or proposed compulsory taxation They have had every opportunity of commenting on the form of taxation which is proposed by the Bill as drafted by the Select Committee, that is, to say, levying a sum up to this rate as a maximum, and it is well known that they are not in favour of it. On that point, I have no sympathy with their objections; but I think that the Commissioners and the rate-payers of this City may strongly object that at a meeting of this Council, without their being aware of the fact, a provision should be passed into law imposing compulsory taxation according to certain limits which, as I shall show, would effect a very material increase in the burden thrown upon the town. If a half per cent rate is levied on bastis and one-eighth per cent. on the general community at a maximum, the total will be about Rs. 35,500 in Calcutta alone. I have no data before me to say what the amount will be in Howrah or the Suburbs, but it may reasonably be assumed that it would amount to about Rs. 5,000 more. In other words, the hon'ble member's amendment would impose a compulsory rate of Rs. 40,000 for the maintenance of the fire-brigade, leaving jute and cotton and other warehouses, and all miscellaneous receipts, to make up the remaining Rs. 20,000 or less, required for maintaining the brigade.

"The proposal, in fact, entirely reverses the policy on which this Council has hitherto proceeded. It has hitherto been assumed that, the nucleus of the Fire-brigade Fund should be the fees levied from warehouses as defined in the Bill, which, under the law at present in force, pay a total taxation of more than Rs. 80,000; Rs. 68,900 being levied from jute and cotton warehouses only, and the sum of Rs. 13,000 or Rs. 14,000 from wood, hay, straw, &c., which are now brought under the Act. The Bill, as it at present stands, will greatly relieve both jute warehouses as well as hay and straw depôts, which are highly assessed under the present law. The new law, so far as we have approved of this Bill, declares that, the fees on such warehouses should not exceed one-half of the total cost of the fire-brigade, that is, to say, it would not exceed more than Rs. 30,000 as a maximum. If the change you are now asked to accept is accepted by the Council, it would arbitrarily reduce the amount so levied to about Rs. 15,000 or

Rs. 16,000, and there is no reason whatever that I can see why this large reduction should be made.

" This is, by far, the most important amendment which has been proposed in the Bill during the course of this discussion. It radically affects the principle upon which we have hitherto gone. That principle is, that the nucleus of the Fire-brigade Fund is made up by the fees and licenses on warehouses, and that what more is wanted to meet the cost of the fire-brigade is to be supplied by taxation on the general public; whereas, what is proposed by the hon'ble member is, that the nucleus should be made up from general taxation, and what remains over should be supplied by fees on warehouses. That entirely reverses the principle of the Bill. It illustrates no doubt the great difficulty there is in passing a Bill of this nature through a Council, where interests are so conflicting. It indicates also the wide difference of opinion which existed while the Bill was under discussion in the Select Committee. No one, who was present at the meetings of the Select Committee, can be surprised at the wide differences of opinion expressed by hon'ble members when they afterwards met in Council to discuss the clauses of the Bill. That Bill, as it left the hands of the Select Committee was, however, I understood, except in details, generally accepted by the majority of that Committee. It was at least accepted in its main point—the main principle of the Bill which relates to the incidence of taxation. If the Hon'ble Mr. Wallis's amendment is carried, it will revolutionize the Bill as it at present stands; and I hope the members of the Council will think twice and three times before they commit themselves by accepting this amendment."

The Hon'ble MR. WOODROFFE said:—"If the motion of the Hon'ble Mr. Wallis was in opposition to the views of the Select Committee, guiding myself by the observations that have fallen from the President during the course of these debates, I should have felt great hesitation in supporting it. But the amendment is not, as I understand it, in opposition to that view. Before the Report of the Select Committee was made, we were furnished with details showing what the annual cost of the fire-brigade was. We further received the assurance of the hon'ble member, the Commissioner of Police, that the cost of maintaining the fire-brigade was practically of a stationary character, and that there was no ground for anticipating that it was likely materially to vary in the time to come. Proceeding on the principle which

commended itself to the majority of the Select Committee, namely, that there should not be a general rate, and the Hon'ble Mr. Playfair and myself accepted, as securing the largest measure of relief thus obtainable, the principle which the majority of the Select Committee arrived at, that it would not be fair or just, in view of the reasons which led to the adoption of this and other matters which were before the Committee, to subject jute and other industries to a tax exceeding 50 per cent., I was at one with the hon'ble mover in this matter. Speaking for myself, I in accord with the hon'ble mover understood that it was as an accepted thing that, the taxes leviable under section 26, clauses (*b*) and (*c*) were to be imposed; and figures were laid before us which showed that if they were so imposed, then that which the Bill aimed at would be effected, namely, that there would not be imposed on the jute industry a liability exceeding 50 per cent. We were given to understand that, as expressed in section 24, the Commissioners were, in the first instance, to pay the whole cost of the fire-brigade, and that they were, for the purpose of providing the cost of the fire-brigade, over and above the amount recoverable as license fees; and with the view of keeping down those fees to the limit, proposed to impose certain rates. But, to my utter surprise, at the first meeting in this Council, there was handed a statement by the Hon'ble Member in charge of the Bill showing that the principle adopted by the Select Committee was to be departed from, namely, that the main portion of the expenditure incidental to the fire-brigade was to be taken from the jute and other industries, and that there was to be a much smaller amount taken from those other sources provided in the Bill. Now, Sir, the Select Committee presented their Report, and the views of the Select Committee are embodied, I presume, in that Report, and they deal with this matter in this way. In paragraph 3, they say:—

'We were unanimous in the opinion that, the Commissioners should be made primarily responsible for the cost of the fire-brigade; and by a majority have decided that the owners or occupiers of warehouses should be liable to contribute, in the shape of license fees, an amount which shall not exceed one-half of the charges.'

"I remember well the discussion which took place on that part of the Report and which led to the alteration of the draft, by the insertion of the words 'shall be liable to contribute half the charges', to the shape in which it now is, namely, 'shall not exceed one-half of the charges.' Then the Report went on to say in paragraph 4:—

[*Mr. Woodroffe.*]

'In view of the primary responsibility imposed upon the Commissioners, we have, by section 26 of the amended Bill, while exempting the owners or occupiers of a warehouse licensed under the Bill from further liability empowered the Commissioners to levy the three following rates: –

(*a*) a two and-a half per cent. rate assessed on buildings or places, used for the storage of inflammable substances, which the Government may declare liable to the payment of this rate; the amount, however, to be levied in any one case not to exceed Rs 100;

(*b*) a half per cent. rate assessed on basti lands;

(*c*) a general one-eighth per cent. rate on all houses and lands assessed under the Municipal Acts affecting the municipalities concerned.'

"That that was the plain and obvious meaning of the section of the Bill now under consideration, is manifest from the observations of the Hon'ble Babu Gonesh Chunder Chunder who was not a member of the Select Committee, to which the Hon'ble Mr. Wallis has referred. [The Hon'ble MR. COTTON:— "Does the learned Advocate-General interpret the word 'empowered' to mean 'bound'?"] I do not. The words are of an enabling character. 'May' is, however, not unfrequently read as 'shall.' But to my astonishment I found from the statement put into my hands that, instead of a rate of 8 annas per cent., only 4 annas per cent. was taken as the rate on bastis valued at Rs. 31,14,616, and one and-a-half anna per cent. rate was taken on pucca buildings valued at Rs. 1,51,39,953; and by so doing, to shew that the amounts obtainable from these rates was, when taken with the receipts from license fees, insufficient to meet the sum of Rs. 60,000 put down as the estimated cost of the fire-brigade. The consequence was, that by reducing the percentage on basti rates by one-half, and by taking the general rate at 1½ annas per cent. instead of 2 annas per cent. on pucca buildings, there is a most serious difference shown. The proceeds of the two totals come to only Rs. 24,250; and the argument was then put forward in Council that there was only Rs. 24,250 available, and that the license fees on warehouses, &c., in Calcutta, Cossipore-Chitpore, &c., would only amount to Rs. 29,000, and so there would not be sufficient to provide for the cost of the fire-brigade. When, as a matter of fact, if the principle of the Bill be taken and it were made obligatory on the Commissioners to impose the taxes specified in the Bill, then there would certainly not be imposed on the jute and other industries a sum exceeding 50 per cent. of the cost of the fire-brigade. I am in accord with the Hon'ble Mr. Wallis in considering that the basis on which we proceeded was, that there was to be this taxation on bastis

and pucca buildings; and I, for one, was not prepared for this mode of dealing with it. It seems, therefore, to be advisable that the Bill should be amended in the way proposed by the hon'ble mover of the amendment. I accordingly support the motion of the Hon'ble Mr. Wallis."

The Hon'ble BABU GONESH CHUNDER CHUNDER said:—"I think that both my hon'ble friend Mr. Wallis and the learned Advocate-General are under a misapprehension in supposing that I said that, in construing section 26, the word 'may' should be read 'shall' in the speech which I made the other day regarding basti owners; what I meant to say was that, under the provisions of this Bill, hut-owners were liable to pay to the extent of 8 annas per cent, and the learned Advocate-General's motion, if carried, would limit their liability to the extent of 4 annas only: it was better that we should support a measure which would reduce the liability of hut-owners. But I never, by what I said on that occasion, intended to convey the idea that I read the word 'may' in this section as 'shall.'

"As regards the principle of raising this tax, although I was not a member of the Select Committee, I understood the principle to be this: that the jute trade should not be made to pay the whole cost of the fire-brigade as it had hitherto done, but that the Commissioners, who had hitherto had charge of the payment of the expenses of the fire-brigade, should retain that power in their hands; that is, to say, they should be primarily responsible to pay the cost to the Commissioner of Police, and they should recoup the expense which they had incurred, not in the first instance by raising the taxation provided for in the Bill but by raising funds according to the directions in the Act, from jute-owners, and then by supplementing it by a tax on the general community. That, I take to be the principle of the Bill What the Hon'ble Mr. Wallis now proposes seems to be a new principle, and I therefore cannot support his amendment."

The Hon'ble MR. LEE said:—"As a member of the Select Committee I wish to say, that my remembrance of the views expressed at the meeting of the Select Committee are in strict accord with the memory of the Hon'ble Member in charge of the Bill, that is, to say, I thought it was clearly understood that the maximum rate, which we fixed as leviable upon warehouses, would be in practice levied up to one-half of the cost of the fire-brigade. The majority said, let it be not more than one-half. Let jute, which has now been paying

120 per cent. of the cost, have hay, straw, wood, &c., to assist it and then let them contribute up to one-half the cost, and let the rest be distributed among the general rates. If this motion were carried, it would be worse than if the original motion of the learned Advocate-General had received the approval of the Council. The figures quoted by the Hon'ble Mr. Wallis are quite correct. They show, as liabilities and charges at maximum rates on buildings and lands in Calcutta alone, the sum of Rs. 34,500, and adding what would be received from the other municipalities it would make a total of Rs. 37,300, leaving out of Rs. 60,000 (which is the cost of maintaining the fire-brigade) the sum of Rs 22,700 to be collected from all warehouses, and of that sum nearly one-half would be paid by other warehouses than jute; so that, we have about Rs. 11,000 to be paid by jute warehouses which last year paid over Rs. 68,000.

"As regards Calcutta, I have said that it would have been better if the original proposal of the learned Advocate-General had been carried than if this amendment is carried, because we should then not have lost the whole, or even up to Rs. 8,000, which we will now lose from hay, straw, wood, &c. We should have collected from them Rs. 13,000 as before, and we should have been able to apportion the rates in a way that would have been least oppressive. If the proposal had been that Cossipore and Chitpore should pay for the cost of its branch of the fire-brigade, which is for yearly maintenance alone about Rs. 7,000, and that Howrah should similarly pay its branch, which also amounts to about Rs. 7,000 (and these figures in each case omit the cost of the capital outlay and charges at head-quarters), and that Calcutta should pay the rest, then the incidence of taxation on Calcutta would not have been so heavy as it would be if the Hon'ble Mr. Wallis's motion were carried.

"But there is one point which has been omitted from view and that is, that the assessable value of Calcutta is an increasing value, and therefore in a few years the contribution from warehouses would decrease. The warehouses undoubtedly would be increasing in number, and we should have the absurdity of their contributions being in inverse ratio to the expense and trouble thrown upon the fire-brigade by such warehouses. I have not the least doubt that, we should stand by the Report of the Select Committee in this case."

The Hon'ble Mr. Playfair said:—"I endorse the views expressed by the hon'ble member who moved this amendment. I understood the sense of the Select Committee to be, that the municipalities should levy a rate of one-eighth

per cent. on the annual value of houses and lands and half per cent. on bastis. The Hon'ble Mr. Cotton has remarked that there is a wide difference between the words 'may' and 'shall', but I was informed, when serving on the Select Committee, that the legal value of the two words, as applied to section 26 of the Bill, is the same; otherwise, I should have made an energetic protest at the time against the use of the word 'may.' It was not until the issue of Statement A to members of the Council, by the Hon'ble Member in charge of the Bill, that his personal ideas of the permissive character of section 26 became known to me. I beg leave to confirm what was said by the learned Advocate-General that, that statement formed no part of the papers considered by the Select Committee. I therefore support the amendment, as it correctly embodies what I understood to be the decision of the Select Committee. I feel bound, however, again to express my regret that the Bill does not level up taxation upon the richer for the benefit of the poorer classes of the communities protected, by the imposition of an infinitesimal all-round rate, which would not be more than a quarter per cent. on buildings and bastis alike."

The Hon'ble MR. LAMBERT said:—"As a member of the Select Committee, I desire to say that it was not present to my mind that there should be afforded to the owners of warehouses, and especially to the jute trade, the measure of relief which is now contemplated by the amendment of the Hon'ble Mr. Wallis. Under the existing law, the jute trade paid 120 or 125 per cent. of the expenses of the fire-brigade, amounting to Rs. 68,000 or Rs. 70,000. The cost of the fire-brigade is now about Rs. 58,000, and I informed the Select Committee that it was not likely largely to increase. I stated that it would in all probability be about Rs. 60,000; and certainly it was present to my mind that the jute industry, aided by the other industries which are called dangerous, should bear one-half the cost of the brigade. By the words 'primarily responsible' which appear in the Report of the Select Committee, all that I understood was, that the Commissioners would be bound to pay to the Commissioner of Police, when he presented his budget, the means to meet the cost of the fire-brigade. I did not understand that the Commissioners would first levy maximum rates, and then that whatever deficit existed would be made up by fees from warehouses. On these grounds, I will certainly vote as I understood the intention of the Bill to be."

The Hon'ble DR. MAHENDRA LAL SIRCAR said:—"That not having been on the Select Committee, I cannot say what the policy was which guided their deliberations; nor is it at all necessary to ascertain whether, the amend-

ment of the Hon'ble Mr. Wallis is in accordance with, or in opposition to, that policy, whatever that might have been. The simple question before the Council is, do lands other than basti lands, and houses other than warehouses, require the protection of the fire-brigade? I think it has been admitted by every one in this Council that, they do not; and therefore, the owners of these lands and houses should not be taxed at all, if possible, or, if taxed, they should be taxed in the smallest degree. The Bill places the tax on these at one-eighth per cent.; but even if you make it one-and-a-half annas per cent., it will not be fair, and therefore so far oppressive. For these reasons, I am entirely opposed to the amendment of the Hon'ble Mr. Wallis, and I cannot see why the Council should go beyond what the Select Committee has provided."

The Hon'ble MR. WALLIS in reply said:—"With reference to what has fallen from the last speaker, I think he is mistaken when he states that, it is admitted by every member of this Council that bastis and houses other than warehouses in no way require the protection of the fire-brigade; the history of the case is very different, for it is admitted that; the general public do derive considerable benefit from the brigade, and especially so the residents in bastis. I hold in my hand a letter from the Commissioner of Police to the Government of Bengal, dated the 26th of December, 1890, in which he clearly shows the danger bastis offer to the town, and the difficulty which is experienced in preventing fires in such places from spreading. It is not necessary for me to read this letter, as it was referred to by one of the hon'ble members in a previous debate on this question; but I only put it forward to show how necessary a fire-brigade is for affording security to the town from conflagrations in bastis."

The Motion being put, the Council divided:—

Ayes 4.

The Hon'ble Mr. Playfair.
The Hon'ble Mr. Wallis.
The Hon'ble Mr. Risley.
The Hon'ble Mr. Woodroffe.

Noes 8.

The Hon'ble Maharajah Ravaneshwar Prosad Sing Bahadur.
The Hon'ble Maulvi Syed Fazl Imam, Khan Bahadur.
The Hon'ble Babu Gonesh Chunder Chunder.
The Hon'ble Dr. Mahendra Lal Sircar.
The Hon'ble Mr. Lee.
The Hon'ble Mr. Lambert.
The Hon'ble Mr. Cotton.
The Hon'ble Mr. Allen

So the Motion was negatived.

[*Dr. Mahendra Lal Sircar.*]

The Hon'ble DR. MAHENDRA LAL SIRCAR moved that clause *a*) [with its proviso] of section 26 be omitted.

He said :—"I have deemed it my duty to move the omission of clause (*a*) of section 26, as not only unnecessary but also as undesirable. The clause had no place in the Draft Bill, and the Select Committee have given no justification for its insertion in the amended Bill. The ostensible object of the clause is, to create a source of raising funds. Now, Sir, we have provision for funds in specifically defined sources of revenue, and these are license fees from warehouses and rates from bastis and dwelling-houses. And particular care has been taken to see that these sources are competent to meet the requirements of the fire-brigade. Hence, Sir, I maintain that an additional source of revenue is unnecessary, especially when that source is undefined and uncertain. We must remember that when we are legislating for the taxation of special trades, it should be our duty to define the limits of taxation with the utmost clearness and precision ; and it has been well said that, that duty becomes imperative when the taxation is for a single particular purpose.

"It may be urged that, the clause is intended not so much for the purpose of raising funds as for the purpose of enabling Government to discover inflammable substances not defined in section 3. But, Sir, there is a section, viz., section 41, under which 'the Local Government may, on the recommendation of the Commissioners in meeting, declare that any building or place used for the storing, or pressing, or keeping of any substance or thing other than those specified in section three, clause (*9*), of this Act, shall be a warehouse within the meaning of, and be subject to the operation of, this Act.' In this section, we have provision for the detection of substances other than those specified in section 3. Where, then, is the necessity of making another provision for the same purpose ?

"It may be contended that, if discretionary power is given to the Commissioners for discovering inflammable substances other than those already specified, why should not the same power be given to the Local Government in addition ? What harm is there in doing so ? To this my reply is, why then legislate at all ? Why encumber the Act with definitions of inflammable substances ? Why not leave these things to the discretion of the Commissioners, or, best of all, to that of the Local Government ?

"For my part, I must confess that I am not for giving discretionary power even to the Commissioners. But if that cannot be avoided, I must beg leave

to point out, that the power given to the Commissioners has been very wisely restricted to one of recommendation only; the final decision resting with the Local Government. Besides, even this power of recommendation is given to the Commissioners in meeting, which makes a world of difference between absolute power and power so modified. In meeting, the Commissioners will have to discuss any recommendations they may think of making. The representatives of the citizens of Calcutta and the public of Calcutta will have ample opportunity of judging for themselves before any recommendation can be sent in. Hence, the chances of abusing this discretionary power will be infinitesimal.

"But of quite a different character, is the power which the Bill proposes to give to the Local Government. Here the power is absolute; and speaking with the utmost deference before the Head of the Government, I may ask what guarantee is there that that power may not develop or rather degenerate into arbitrary power? And when such is the case, then, in addition to the Act which this Bill will become when passed, we may have no end of Acts of a different nature altogether. In fact, in my humble judgment, the clause in question, if retained, would virtually give to the Local Government power to make law without the Legislature, which the instinct of modern times feels to be far from desirable.

"Lastly, Sir, I beg to point out that, while we have in the clause under consideration provision of an undefined, uncertain and therefore arbitrary character, for widening the area of taxation, there is no provision whatever for reducing the amounts of the taxes actually defined; and this, it must be admitted, is far from equitable.

"For these reasons, Sir, I look upon clause (*a*) of section 26 as not only unnecessary, but undesirable and objectionable. I would, therefore, move for its omission."

The Hon'ble Mr. Cotton said:—"This clause finds its way in the Bill owing to my instrumentality. Under the law as it at present stands, 'jute' and 'cotton' are defined to mean, jute and cotton which have not been pressed or screwed as if for shipment. Under the Bill, 'jute' means raw jute and 'cotton'

means raw cotton. Absolutely, all forms of pressed jute are excluded from the operation of the present Bill. Now, it seems to me very fair and reasonable that pressed jute should be excluded from the category of jute kept in warehouses. But I was not satisfied and I am not satisfied that pressed jute, as it comes to Calcutta, is not in many cases an inflammable material, of such nature that the buildings in which it is stored should not be specially assessed to a tax for the maintenance of a fire-brigade. There are also many other commodities of a very doubtful character which are not of the eminently inflammable character specified in clause (*9*) of section 3, or which could properly be included by the Lieutenant-Governor in that clause according to the powers vested in him, on the recommendation of the Commissioners in meeting, by a subsequent section of the Bill. It seems to me very possible that oil, of which we have heard so much to-day and which I am far from satisfied is of a non-inflammable character, would appropriately come under clause (*a*) of section 26; and there are many other materials which, although not so inflammable as jute or cotton, or hay, straw, &c., are sufficiently inflammable to make them liable to the payment of a special tax. That is why this provision found its way in the Bill. The rate leviable in such cases would be two and-a-half per cent. only on the assessable annual value, and the limit of taxation in any case is fixed at Rs. 100 in order to prevent an excessive rate being levied. It was intended to draw a distinction between commodities of an eminently inflammable character and those which are less inflammable, and, therefore, power is reserved in the hands of the Government to meet special cases."

The Hon'ble MR. WOODROFFE said:—"This matter of baled jute, to which the Hon'ble Member in charge of the Bill has referred, was considered by the Select Committee, who reported to the Council that they had considered the advisability of bringing baled jute within the provisions of section 26 of the amended Bill, but had determined not to do so."

The Motion was put and also negatived.

The Hon'ble MR. WALLIS, by leave of the Council, withdrew the motion of which he had given notice that, in clauses (*b*) and (*c*) of section 26, for the words "not exceeding" the word "of" be substituted.

The Hon'ble BABU GONESH CHUNDER CHUNDER, by leave of the Council, withdrew the motion of which he had given notice that, clause (*c*) and sub-section (*2*) of section 26 be omitted.

The Council adjourned to Saturday, the 11th March, 1893.

CALCUTTA;
The 20*th March*, 1893.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 1099G—300—30-3-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 11th March, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.

The HON'BLE J. T. WOODROFFE, *Offg. Advocate-General*.

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE H. H. RISLEY, C.I.E.

The HON'BLE J. LAMBERT, C.I.E.

The HON'BLE H. LEE.

The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.

The HON'BLE A. H. WALLIS.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE P. PLAYFAIR.

The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

The HON'BLE MAHARAJAH RAVANESHWAR PROSAD SING BAHADUR.

MALARIA IN SHAHABAD.

The Hon'ble MAULVI SYED FAZL IMAM, Khan Bahadur, asked whether Government is aware that the construction of irrigation channels in Shahabad has introduced malaria into the district, and that the health of the people has greatly deteriorated in consequence; and, if so, whether the Government has taken any steps or will take steps, and of what nature, to check the spread of the disease?

The Hon'ble MR. COTTON replied as follows:—"The alleged deterioration of the health of the district of Shahabad, subsequently to the introduction of canal irrigation, has repeatedly attracted the attention of Government. It was brought prominently to the notice of the Sone Canal Committee of 1887, and their remarks on the subject will be found in paragraphs 69 to 77 of their Report.

The increase of malarial fever was considered to be established. The suggestion that irrigation should be prohibited in the immediate vicinity of towns and villages was thought to be of little practical value, because canal water is rarely used in those lands. With regard to drainage, the Committee held that, it was the duty of the authorities to remove obstructions which caused the accumulation of surface water, but that there were no means of dealing effectually with the question of subsoil drainage so as to prevent the rise of the water level in the subsoil generally.

"Mr. Odling, the Chief Engineer and Secretary to this Government in the Irrigation Department, in a lecture which he delivered at the Engineering College, Sibpur, on the 23rd of February last (a copy of which I shall have much pleasure in placing in the hon'ble member's hands), has touched on this subject. He has shown that rice irrigation requires an artificial supply of about 30 inches of water, which is an addition of from 50 to 75 per cent. to the natural rainfall of the country. This necessarily affects the health of the district; but so long as the people insist on planting rice, which gives an easy and certain outturn in preference to wheat or other cold-weather cereals, this deterioration in health cannot be avoided, except by such measures of despotic interference with the choice of the agriculturists as to the crops they wish to raise, as Government would be very unwilling to adopt. He further asserts that the canals have not stopped the surface drainage of the country, but have on the contrary improved it. Before the canals were constructed, 'there was not a stream or small river which was not every two or three miles practically closed by embankments, sometimes a mile in length, constructed across the stream. These embankments were mostly constructed for fishing purposes, but not unfrequently with the view of raising the level of the water and utilising it for purposes of irrigation.' These embankments have to a great extent been cleared away, the channels being taken up as public water-courses on which no encroachments will in future be allowed. The river Kao, for instance, which is the main drainage channel of the district, was, when irrigation works were commenced, completely closed at different points of its course by 14 embankments crossing the stream, and as a drainage channel it had ceased to exist. This has now been remedied, and the same process is going on elsewhere wherever it is found necessary; and this appears to be the most practical step that Government can take towards remedying the mischief to health which the lavish use of canal water for rice cultivation is liable to cause."

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The Hon'ble Mr. Cotton moved that the clauses of the Bill, for the regulation of Warehouses and the maintenance of a Fire-brigade, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble Mr. Woodroffe moved that, after section 28, the following section be added:—

'The Fire-brigade Fund formed under this Act, and the fire-engines, fire-escapes, horses, accoutrements and other equipments and appurtenances of the fire-brigade, and all stations, buildings and places heretofore acquired, provided or built out of any fund appropriated to the maintenance of the fire-brigade under Act IV of 1883 or any of the Acts repealed thereby, or which shall hereafter be acquired, provided or built under the provisions of this Act, are hereby vested in, and shall belong to, the Commissioners, subject to the control of the Commissioner of Police.'

He said:—"Under the Bill, as it at present stands and so far as it has received the approbation of the Council, there will be imposed on the general public, through the Commissioners of Calcutta, a considerable charge for the maintenance and up-keep of the fire-brigade, which was not laid on the public before. The general public will have to pay at least fifty per cent. of such expenditure. Under the Bill, there is a provision for the acquisition of sites for fire-brigade stations and for the purchase of the various equipments and appurtenances required for the fire-brigade, but there is no provision in the Bill vesting those sites and things in any body. They ought, I conceive, to be vested in the Commissioners as representing the general public. Next, it appears to be very desirable that the control of the fire-brigade should, in express terms, be secured to the Commissioner of Police. The section, the introduction of which I have the honour to move, is framed with this two-fold object. By Act II of 1872, section 15, it was enacted that, all existing public fire-engines or stables or buildings thereto belonging, except those belonging to the Military Department or to the Port Commissioners, constituted under Act V of 1870, should be transferred to the fire-brigade, which, by that section, the Justices were to organise and thereafter to maintain. By Act V of 1870, the Commissioner of Police was, under section 17, directed to take charge of the existing fire-brigade with all buildings, animals, &c., thereto belonging. In Act IV of 1883, there is nothing to be

found as to the vesting of the proprietary right of the properties belonging to the fire-brigade, or as to the Commissioner of Police having control of the brigade. That is how the law stands at present.

"The practical results to be obtained by the proposed section are, that, if passed, there cannot be at any time any question as to the persons in whom there is vested property in the fire-brigade; and that if it should be thought desirable to sell any site or to secure other sites in more convenient localities, the disposal and acquisition of such sites will be more readily effected. The existing sites and appurtenances have been acquired, for the benefit of the fire-brigade in former years, by means of the heavy license fees imposed on the jute industry. After the passing of this Bill, the burden will be divided, and the public will, in the shape of general taxation, have with the industries taxed to pay for those sites and equipments. It appears therefore, Sir, but just that the property and funds belonging to the fire-brigade should be vested in the Municipal Commissioners. It seems to me also just that, while vesting the Commissioners with the proprietary right in these matters, they should be subject, as they practically have been during a considerable period of time, to the absolute control of the Commissioner of Police. It is not my intention to interfere with that control; nor do I think it could, under the language of this section, be contended that, the Municipal Commissioners could interfere with or disturb that control. The proposed section merely provides for vesting in the Commissioners the Fire-brigade Fund, the fire-engines, fire-escapes, horses, accoutrements and other equipments and appurtenances of the fire-brigade, and all stations, buildings and places heretofore acquired, provided or built out of any fund appropriated to the maintenance of the fire-brigade under Act IV of 1883."

The Hon'ble MR. COTTON said:—"I regret, Sir, that I should find it my duty to oppose this amendment. It appears to me that there are only two principles before this Council, in respect of the executive management of the fire-brigade. Either the fire-brigade must be managed as it is in other countries by the local body concerned, that is, to say, in the case of Calcutta by the Calcutta Corporation, or it must be managed by an executive officer appointed for the purpose, as it has been the practice in Calcutta, by the Commissioner of Police. When first the fire-brigade was established in Calcutta, the responsibility of its administration rested with the Justices of Calcutta. The fire-brigade in

those days was managed in a very simple manner; but when, in consequence of the large conflagrations in jute warehouses, it was found necessary to increase the fire-brigade, the Justices found themselves unable to administer it efficiently and they requested the Commissioner of Police to take over charge. This he did, and the arrangement which was come to in 1872 was ratified by the Legislature in 1879, and that arrangement has remained in force ever since. The reason for the arrangement was, that the Commissioner of Police, with the large staff at his disposal, is able to administer and control the brigade more efficiently and certainly very much more cheaply than the Calcutta Corporation would be able to do. He is able to administer the brigade thoroughly and efficiently at a cost of something more than Rs. 50,000 a year. There can be no doubt, I think, that if the control were transferred from the Commissioner of Police to the Corporation, the expenditure would be trebled. In Bombay, where the Corporation is responsible for the administration, the cost of maintaining the fire-brigade is about Rs 1,50,000 a year. It was primarily, in order to avoid this large expenditure, that the Legislature decided that the arrangement for managing the fire-brigade through the Commissioner of Police should continue, and, as far as I am aware, the Municipal Commissioners of Calcutta have not objected to this arrangement. It is no doubt inconsistent with the general doctrine, that those who provide the funds should be responsible for the administration. That is a sound and healthy rule, but it is liable, like all other general rules, to exceptions. The reason for the exception in this case is, that the fire-brigade can be managed very much more cheaply by the Commissioner of Police.

"The amendment proposed by the learned Advocate-General recognizes the control of the Commissioner of Police, but it vests the whole property of the fire-brigade in the hands of the Municipal Commissioners; and it seems to me that, by so doing, it introduces an element of friction and disturbance. Under the Bill, as it now stands, the Commissioners of Calcutta will have nothing whatever to do with the fire-brigade or with the licensing of warehouses, except the collecting of the funds necessary for the purpose of maintaining the brigade. The powers, hitherto exercised by the Calcutta Corporation, have been materially diminished by the provisions of the Bill. It is, as hon'ble members are aware, a sore point with the representatives of the Municipality in this Council that it should be so. But, of this I am sure that, if the amendment now proposed by the learned Advocate-General is passed, the

sore which already exists will be constantly kept alive. This amendment will act as a perpetual blister which will serve to perpetuate the friction, which possibly, if left alone, may die out. It is inconceivable that the Municipal Commissioners, having the whole property of the brigade vested in them, should not take action under the power which the law gives them. I cannot say what direction that action might take, but there can be little doubt, I imagine, that it would result in interfering with the absolute discretion which the law at present leaves in the hands of the Commissioner of Police, in administering the affairs of the brigade. If their interference should not tend in that direction, I cannot say in what direction it would operate; and I, for one, would very greatly regret if we allow a provision to be inserted in this Bill which is likely to produce so dangerous and troublesome an effect.

"There is one other very practical objection to the learned Advocate-General's amendment, and that is, that it is not the Commissioners of Calcutta alone who are interested in the working of this Bill. It is not in the Commissioners of Calcutta alone that the property of the fire-brigade will be vested, if this amendment is passed. But it is in all the Commissioners of the neighbouring Municipalities as well as the Commissioners of Calcutta; and it will be absolutely impossible to define what property is vested in the hands of the Commissioners of Calcutta, what property is vested in the hands of the Municipal Commissioners of Howrah or in those of the Commissioners of Cossipore or Chitpore, or of the South Suburban town. In those outlying Municipalities, fire-brigade stations have generally been constructed. The head-quarters of the brigade are in Calcutta itself; and all the property of the brigade–fire-escapes, horses, accoutrements, equipments, and what not–which are now stationed in Lall Bazar, will, if this section be passed, be vested equally or proportionately–I cannot say what the learned Advocate-General's intention is in this respect–not only in the Calcutta Commissioners but in those of the Commissioners of the Municipalities to which this Act is extended. This is a very practical difficulty against the acceptance of the amendment proposed. I object to it, Sir, both on the ground of the extreme friction which a clause of this nature will be calculated to excite, and I object to it also on the ground of its extreme practical inconvenience."

The Hon'ble MR. LAMBERT said:—"I think that this Council will consider that the motion brought forward by the learned Advocate-General ought to be

based either on what is equitable or what is expedient, if not on both. Now, is the proposal an equitable one? At an earlier stage in the debate, the learned Advocate-General insisted with much emphasis that the municipalities had, without any kind of justification, benefited largely from the Fire-brigade Fund. The amount appropriated for general improvements was said to amount to upwards of a lakh of rupees. The property of the fire-brigade may, at the present time, be estimated at something like two lakhs of rupees, and why this valuable property should now be made over as a free gift to the municipalities, simply because it is proposed to impose on those bodies a portion of the cost, I am at a loss to understand? The property has been paid for wholly by the owners of jute warehouses. If, therefore, the Hon'ble Mr. Playfair were to make any claim on behalf of the owners of warehouses, the proposal would be intelligible. But, Sir, as the matter stands, the Council will, I think, fail to see where the equity of the motion comes in.

"Nor is it expedient. The proposal, to vest the control of the brigade in the Commissioner of Police, is not a new one. This method of control was decided on twenty years ago, as soon as ever it was found necessary to maintain a brigade at all, and this method was decided for two reasons: economy and efficiency. Now, it is not proposed to disturb this arrangement. The control of the brigade is still to be vested in the Commissioner of Police, but the property of the brigade is to be vested in the Commissioners. I ask whether anyone in this Council Chamber would, in an important matter like this, willingly accept control so fettered? The property of the brigade is declared to belong to certain bodies, but the Commissioner of Police is to control it. And the Hon'ble Member in charge of the Bill has explained that there is not one single municipality, but several municipalities. We already know of four. All these are separate bodies. How then is the property of the brigade to be apportioned amongst them? At the head station, there are four steam-engines and most of the plant and horses; at Howrah, there is one engine; at Chitpore-Cossipore, one; at Manicktollah, none. Is Calcutta to take all that is at Lall Bazar and is Howrah to take what is at Howrah, and so on? But, even if this were so settled, the property of the municipalities would be constantly on the move—sometimes here, sometimes there. How is all this to be settled? Again, it may be necessary to condemn an engine or stores. How is this to be done? Is each municipality to be consulted, and supposing one of them objects, who is to decide? Sir, if this motion of the learned Advocate-General be

carried, there is only one logical sequence. The control of the fire-brigade must be transferred to the municipalities. Let them manage their own property; but do not by your vote sanction what is neither equitable nor expedient, and which must lead to friction and inconvenience."

The Hon'ble MR. PLAYFAIR said:—"The statement has been accepted by members of this Council that, the jute industry founded the fire-brigade as it has been known since 1872; that that industry has been taxed so as to enlarge the resources of the brigade to an extent commensurate with the adequate protection of a metropolitan area not far short of 55 square miles, to provide pension funds and sums to improve the block property of the Corporation: yet it has never been stated to whom the property of the brigade belongs or in whom it is vested. It is now, however, proposed that the valuable property represented by the brigade shall be made over to the town, that is, it shall be a new gift, as we have just heard, of two lakhs of rupees from the jute industry to the City to the Corporation and citizens of Calcutta. Were the Government now to propose that, in consideration of this handsome donation, this real benefit, the jute industry should be relieved of fire-brigade taxation for, say, a period of five years, it would do nothing more than show a just concern for the interests of a community which, though small, has done a very great deal towards developing the prosperity of this City.

"The funds of the fire-brigade have been so freely utilized for other purposes that I gladly support any proposal that might, in future, confine the expenditure of these funds solely to the purposes of the brigade; and that would make some single body responsible for the equipment of the brigade. So long as particular industries continue to be assessed to special and differential taxation, I consider it most necessary that the expenditure of the contributions levied from them should be jealously watched. On the supposition that the amendment before the Council has this object in view, I give it my support."

The Hon'ble MR. WOODROFFE in reply said:—"This motion has been opposed by the Hon'ble Member in charge of the Bill on two grounds: first, he says it will operate as a perpetual blister, and, secondly, that it is impractical in its character; and he has alluded to there being some friction, as I understand him, between the Municipality and the Commissioner of Police. [The Hon'ble MR. COTTON:—"None at present."] How this provision can operate to

cause friction of any kind which should be dreaded, I am unable to see. It was said by the hon'ble member that the fire-brigade has been managed, whilst under the control of the Commissioner of Police, in a most economical manner. I trust the hon'ble member will accept my assurance that I, in no degree, doubt that statement; nor is it any part of this amendment to alter the position of affairs as regards the control of the Commissioner of Police. So far, therefore, as the remarks of the Hon'ble Member in charge of the Bill are concerned, as regards economy and good management, I am at one with him. It is said, that the Municipal Commissioners have not objected to the present state of things. What is the present state of things? I was in hopes that the Hon'ble Member in charge of the Bill would have favoured the Council with his opinion, as to the persons in whom the property is vested at the present moment. That the Commissioners have not in times past insisted upon an express recognition of their proprietary right may well be, because, in those days the general body of rate-payers did not contribute towards the cost of the fire-brigade. No doubt, in the time to come, when this Bill is passed into law and funds have to be provided by the general body of the rate-payers, we may expect that those rate-payers will be less supine in the consideration of their interests and the safe-guarding of their property, than the Commissioners were when they did not tax the rate-payers at all. If everything is, as I have every reason to believe it to be, perfectly straight and perfectly satisfactory, then I have not such fear and dread of the rate-payers taking such action as the law allows. I think it very desirable that persons should take such action as the law allows them.

"I am not a believer in arbitrary power; my contention is that, whilst the Commissioner of Police should have complete control over the fire-brigade, the Municipal Commissioners should know what the property consists of, and that it should be treated in law as belonging to them. But my hon'ble friend suggested that there was a practical difficulty in the matter. The practical difficulty which suggested itself to him is, that the term used in the amendment is 'the Commissioners', and that term is defined in the Bill, as he rightly points out, to include not merely the Commissioners of Calcutta but also the Commissioners of the various Suburban Municipalities. The term was used by me of set purpose, in order to avoid the difficulty which the hon'ble member seemed to find. It is not my intention; and I do not think the proposed section can be read so as to vest in the Calcutta Corporation portions of the property, and in the Commissioners of Howrah, Cossipore, &c.,

other portions. For the purposes of this Act, the whole of those Commissioners have the property vested in them; and, therefore, the section will prevent the occurrence of that which has been described as a blister and as a friction. It will not, in any way, enable the Corporation to come in and make an objection to a particular mode of dealing with that portion of the fire-brigade property which is within its limits. Far from it. The property would be vested in the whole of the municipalities concerned, and there would therefore be no ground for the Calcutta Commissioners laying claim to the property in Lall Bazar or any other particular property. It has been admitted by the Hon'ble Member in charge of the Bill that the general rule is, that to those who pay belong what they pay for. That, I understand, is the highest principle of law; and it will be found that, there is nothing in this section to prevent there being a perfect safeguard in maintaining the complete control over the property of the fire-brigade being in the hands of the Commissioner of Police."

The Hon'ble THE PRESIDENT said:—"I am sure the Council will feel some hesitation in differing from the learned Advocate-General on an amendment which has been brought forward on a matter which is mainly one of legal scope. I came down to this meeting without having formed any definite view as to what the meaning and effect of this amendment, if carried into law, would be; but I venture to say that the result of the discussion to my mind has been to create the opinion that, it would be unwise and dangerous to pass this amendment. It is admitted that, under the present law which has been in force since 1883, the property of the fire-brigade is not legally vested in any one. This may be technically an anomaly, but I think we should require of any one who wishes to remove that anomaly, that he should show that inconvenience has arisen from it hitherto. Apparently, so far as I have understood the debate, no such inconvenience has been felt. If, therefore, we are to remove an anomaly, from which no inconvenience has arisen, we ought to do it by legislation, the results of which are clear and patent to all.

"It seems to me that the amendment which has been proposed might produce results which are not anticipated, and, at any rate, that there is considerable difference of opinion in the minds of hon'ble members as to what those would be. As far as I understand the question, the advantages which the learned Advocate-General has referred to, as to be brought about by

the passing of his amendment, are already provided for in the law. The Commissioner of Police has to prepare an annual budget; that budget has to be laid before the Municipal Commissioners at a meeting and may be criticised and modified by them, such criticism and modification only taking effect if ultimately they are approved by the Local Government. Again, at the close of the year, the Commissioner of Police has to present a report of the working and the expenditure of the fire-brigade, which is to be published in the Gazette. All information, therefore, which is needed by the public, who contribute by the payment of taxes towards the maintenance of the fire-brigade, will be conveyed to them under the provisions of the present law. But it seems to me that, it might be a very dangerous thing if there is an obscure region in which the authority of the Commissioners and of the Commissioner of Police might possibly clash. I think we are justified in trusting to the good sense and moderation of both the Municipal Commissioners and the Commissioner of Police that there will be no clashing; but it would be unwise for the Legislature to introduce an amendment, the result of which would be to involve things in obscurity, and possibly clashing, which none of us desire and which can lead to no good result. I shall, therefore, vote against the amendment."

The Motion being put, the Council divided:—

Ayes 3.	*Noes* 10.
The Hon'ble Mr Playfair.	The Hon'ble Maharajah Ravaneshwar Prosad Sing Bahadur.
The Hon'ble Babu Gonesh Chunder Chunder	The Hon'ble Maulvi Syed Fazl Imam, Khan Bahadur.
The Hon'ble Mr. Woodroffe.	The Hon'ble Mr Wallis.
	The Hon'ble Dr. Mahendra Lal Sircar.
	The Hon'ble Mr. Lee.
	The Hon'ble Mr. Lambert.
	The Hon'ble Mr. Risley.
	The Hon'ble Mr. Cotton.
	The Hon'ble Mr. Allen.
	His Honour the President.

So the Motion was negatived.

The Hon'ble Mr. Wallis moved that, the following section be added after section 28 of the Bill:—

'The Fire-brigade Fund formed under this Act, and the fire-engines, fire-escapes, horses, accoutrements and other equipments and appurtenances of the fire-brigade, and all stations,

buildings and places heretofore acquired, provided or built out of any fund appropriated to the maintenance of the fire-brigade under Act IV of 1883 or any of the Acts repealed thereby, or which shall hereafter be acquired, provided or built under the provisions of this Act, are hereby vested in the Commissioner of Police, subject to the control of the Local Government.'

He said:—"The amendment, which stands in my name, is identical with that which was brought forward by the learned Advocate-General and which has just been lost, except that my proposal is, that the property of the brigade shall be vested in the Commissioner of Police, subject to the control of the Local Government, instead of in the Municipal Commissioners as suggested by the learned Advocate-General.

"It seems to me beyond question that the valuable property of the brigade should be vested in some responsible official, and no arguments are required to prove that the official most suited to be entrusted with this charge is the Commissioner of Police, as the Chief Executive Officer of the brigade, and under whose sole orders the fire-brigade is worked. Throughout the whole Bill, this officer is recognized as the person to whom Government will look for the efficient working of the brigade, and it seems but reasonable that the property should be vested in him, thus making him legally responsible for everything appertaining to or belonging to the brigade. In the event of land being acquired for the purposes of the brigade, it would be vested in the Secretary of State. In the first place, the Commissioner of Police, under section 8, clause (*1*), is empowered to appoint the Inspector of Warehouses. Under section 24, the Municipal Commissioners have leave to pay to the Commissioner of Police the sums required to meet the cost of the brigade. Under section 27, it is the Commissioner of Police who has to frame the annual budget, and to distinguish in the receipts of such budget the proportionate sums to be contributed by the several municipalities. Under section 31, the Commissioner of Police is deputed to maintain an efficient fire-brigade, and finally, under section 42, the Commissioner of Police has to submit a report to the Local Government showing the constitution, assets and working of the fire-brigade during the year.

"It will be seen, from the sections to which I have ventured to draw the attention of hon'ble members, that this officer is in every way held responsible for the equipment and efficient working of the brigade. It is, therefore, nothing but right that, as the Commissioner of Police is thus made liable, nothing should

be done which is likely to hamper his freedom of action, or which would interfere with the economical working of the brigade or impair its efficiency.

"It must be remembered that an immense saving is effected by Government allowing the Commissioner of Police to act as Chief of the brigade, and in permitting the subordinate members of the police force to assist in cases of emergency. I understand that no charge has been made at the head-quarters of the police for stabling accommodation for fire-engines, vans, breaks, &c., godowns for stores, or quarters for men, and this may be considered an ample return for any benefit the Police Funds may derive by using the horses belonging to the brigade. It must be remembered that the horses would, under any circumstances, have to be kept in exercise, and were it not for the use they get in the police vans, &c., special men would have to be kept for the purpose.

"I think I have said enough to show that, if the property is to be vested in any particular official, the Commissioner of Police is the one in whom it should be so vested.

"With these remarks, I would move the amendment which stands in my name."

The Hon'ble MR. WOODROFFE said :—"Although it is very desirable that the property in question should be declared to be vested in some person, I confess there is some difficulty in enacting that such person should be the Commissioner of Police. The proposed section refers to the Commissioner of Police; whilst the hon'ble member suggests that the landed property will be vested in the Secretary of State, but the amendment which he has proposed vests it in the Commissioner of Police. There are, I think, very serious questions involved in the proposed new section, which ought to be avoided if possible."

The Hon'ble MR. ALLEN said :—"It appears to me that this amendment is decidedly of a very doubtful character, because the Commissioner of Police *qua* Commissioner of Police cannot hold property. In what capacity can he hold property? In England, the Rector of a parish can hold property, because, under the English law, he is a corporation sole; but the Commissioner of Police is not a corporation sole, Calcutta being ruled by English law. I speak with great hesitation in the presence of the learned Advocate-General, but apparently his view is almost identical with mine. Could the Commissioner of Police institute a civil suit? A large number of powers are conferred upon the Commissioner

of Police, but they are exercised for the purposes of police. The property of the fire-brigade is mostly moveable property, and mere possession of that moveable property gives the possessor a right against wrong-doers. The mere fact of his having this property in his charge will entitle him to maintain a prosecution for theft. The property being mostly moveable property, there would appear to be no difficulty in protecting it under the ordinary law. But, as to immoveable property, the question is doubtful. That must vest in some body. I presume that all the immoveable property, belonging to the Government and now occupied by the police, is vested in the Secretary of State. I can see no difficulty in allowing the property, which the police hold for fire-brigade purposes, to be regarded as being also vested in the Secretary of State; and it appears to me, therefore, that it would be wiser not to press this very doubtful amendment."

The Hon'ble THE PRESIDENT said:—"I venture to suggest, after what has fallen from the legal advisers of this Council to the effect that the passing of this amendment would be contrary to law, that the hon'ble mover will perhaps see fit to withdraw the amendment."

The Hon'ble MR. WALLIS, at the suggestion of the President, then withdrew the amendment.

The Hon'ble MR. WOODROFFE moved that, in section 46, the words "coir," "oil" and "ship-chandlery", wherever they occur, be omitted.

The Motion was put and agreed to.

The Hon'ble MR. COTTON moved that, for section 47, the following be substituted:—

'47. Sections three hundred and forty-seven of the Calcutta Municipal Consolidation Act, 1888, and two hundred and sixty-one of the Bengal Municipal Act, 1884, are hereby repealed, in so far as they entitle the Commissioners to levy fees in respect of premises licensed as depôts for hay, straw, wood, rags, jute or other dangerously inflammable material, which are licensed and used as warehouses under this Act.'

He said:—"The amendment which stands in my name is of a formal character only, and is intended to extend the repeal of the law, in so far as the imposition of a special tax on hay, straw, wood, &c., applies in the Municipality of Calcutta, to other municipalities to which the Fire-brigade Bill

has been or may be extended. By an oversight, the Select Committee repealed this section in respect of the Calcutta Municipality only It escaped notice that a similar provision is contained in the Bengal Municipal Act, and that a similar repeal should therefore be enacted in respect of such articles of an eminently dangerous and inflammable character as are enumerated in the Bengal Municipal Act. The amendment before you makes the proposed repeal apply equally to the Calcutta Municipal Consolidation Act and to the Bengal Municipal Act of 1884, and the concluding words of the section repealing the existing law, in so far as it enables the Commissioners to levy fees in respect of premises licensed as depôts for hay, straw, wood, rags, jute or other dangerously inflammable material which are licensed and used as warehouses under this Act, make it sufficiently clear that the repeal cannot extend to any other municipality than those to which this Act will apply or may hereafter be extended. It is only under the Bill, now before the Council, that warehouses can be licensed and used under the Act. But if this point, in the opinion of my legal friends opposite, is not clear, I shall have no objection to a postponement, in order to reconsider the terms of the section and make it quite clear. I believe, however, that the amendment, as it stands, is not open to any such objection."

The Hon'ble MR. WOODROFFE said:—"I understand that the Hon'ble Member in charge of the Bill has asked for my opinion on this matter. In answer I have to say that, I do not see any objection to the proposed amendment. I believe it was by an oversight that we did not take power under the Bill to deal with the mufassal municipalities in the same way as in the case of the Calcutta Municipality."

The Hon'ble THE PRESIDENT said:—"I may explain that the difficulty which, I believe, I suggested to the Hon'ble Member in charge of the Bill was, that it appeared to me that, as the section in the Bill stands, it precludes taxation of depôts for hay, straw, &c., in all municipalities in Bengal and not only in those municipalities to which the present Bill applies. This difficulty is, however, an unusual one, for the Hon'ble the Advocate-General agrees with the Hon'ble the Chief Secretary that, the introduction of the final words in his amendment would confine it to those warehouses which are licensed under the Act; and this will apply it only to the Municipalities of Howrah, Cossipore-

Chitpore and Manicktollah, and will prevent its being applied to other municipalities."

The Motion was put and also agreed to.

The Hon'ble THE PRESIDENT said:—"We have now disposed of all the amendments which have been brought before the Council, and it is only necessary to hold one more meeting to pass the Bill as amended. It will now be printed and circulated in its revised form, and there will be a final opportunity for any verbal alterations which may be found to be required before it is passed into law at the next meeting of the Council. It will be convenient to allow more than one week for this purpose. The Council will, therefore, be adjourned for a fortnight."

The Council adjourned to Saturday, the 25th March, 1893.

CALCUTTA;
The 27th March, 1893.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

[By subsequent order of the President, the meeting of the Council was postponed to the 1st April, 1893.]

Reg. No. 1105G—300—30 3-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., Cap. 67.

The Council met at the Council Chamber on Saturday, the 1st April, 1893.

Present:

The HON'BLE SIR CHARLES ALFRED ELLIOTT, K.C.S.I., Lieutenant-Governor of Bengal, *presiding*.
The HON'BLE SIR CHARLES PAUL, K.C.I.E., *Advocate-General*.
The HON'BLE T. T. ALLEN.
The HON'BLE H. J. S. COTTON, C.S.I.
The HON'BLE H. H. RISLEY, C.I.E.
The HON'BLE J. LAMBERT, C.I.E.
The HON'BLE DR. MAHENDRA LAL SIRCAR, C.I.E.
The HON'BLE A. H. WALLIS.
The HON'BLE GONESH CHUNDER CHUNDER.
The HON'BLE P. PLAYFAIR.
The HON'BLE MAULVI SYED FAZL IMAM, KHAN BAHADUR.

NATURAL DRAINAGE OF VILLAGES.

In the absence of the Hon'ble Dr. Mahendra Lal Sircar, who came late and who had given notice of the question, the HON'BLE BABU GONESH CHUNDER CHUNDER enquired whether Government is aware that the water-mains of the Calcutta Corporation, which have been laid along the Barrackpore Trunk Road, have materially obstructed the drainage of the villages to the east of the Road, by passing through several bridges over the water-courses which cross the road from the east to the west in the manner shown in the accompanying rough sketch of two of the bridges named therein and thus causing permanent saturation with water of the soil on both sides of the road, have aggravated the malarial condition of the villages? And that in view of the importance of the subject, whether Government is prepared to order the necessary enquiries with

the object of finding and carrying out of any remedial measure or measures other than that adopted by the Corporation, namely, that of deepening the channels of the water-courses at the places crossed by the mains, and which has proved ineffectual owing to the rapid silting up of these excavations?

The Hon'ble Mr. Risley replied as follows:—"In reply to the Hon'ble Dr. Mahendra Lal Sircar's question, I have to say that two reports have been received by Government which touched on the state of things complained of. The Sanitary Commissioner, Dr. Gregg, submitted a report, dated the 21st January, 1890, on the drainage, water-supply and conservancy arrangements of the group of small municipalities surrounding Calcutta on the north and east, in which he attributed the main evils, from which this tract of country suffered, to obstructions set up by the agricultural population impeding the natural flow of the streams and drainage channels. He also remarked, in discussing a scheme for opening up the Bagjala khal, that 'the syphons passing under the main pipes of the Calcutta Water-works do not, I understand, work properly owing to their becoming silted up occasionally, and at such times obstructing the free flow of drainage through them. These syphons should never be allowed to become silted up, even temporarily.' The memorandum in question was reviewed by Government in the Municipal Resolution of the 7th February, 1890, and was transferred to the Sanitary Board for further consideration and action. The other paper, which Government has received, was a Note by Babu Dakhina Ranjan Mukerji on the insanitary condition of the Baranagore Municipality, in which he referred to the material, though partial, blocking of the culverts in the Barrackpore Road by the construction of the Calcutta Water-works. In both these reports, the reference to this particular obstruction occupied a very subordinate place; and the larger proposals, respecting compulsory drainage and excavation of old silted up channels, have been pending until some legal powers should be acquired by Government to intervene in such cases. When sanction was given by Government to lay the Calcutta main, it was required that the area of the drainage openings in the road should not be diminished, and it is believed that this condition has been fulfilled. The Government is not aware that the crossings provided have deteriorated or silted up, but enquiries will be made on this point and, if the statement communicated by the hon'ble member is found to be correct, the local authorities will be enjoined to restore matters to a proper state."

[*Mr. Cotton.*]

LICENSED WAREHOUSE AND FIRE-BRIGADE BILL.

The Hon'ble MR. COTTON moved that the clauses of the Bill, for the regulation of Warehouses and the maintenance of a Fire-brigade, be further considered for settlement in the form recommended by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. COTTON said:—"The amendment which stands in my name is of a verbal character, but, in effect, it makes clear the intention of section 9 of the Bill. Under section 9, with the consent of the Chairman of the Commissioners, any Special Committee, whom the Commissioners in meeting shall on that behalf appoint, may exercise the powers and the discretion vested by the Act in the Chairman of the Commissioners. The particular point of my amendment is, to enable the Special Committee to exercise not only the powers but all or any of the powers of the Chairman. It is desirable that this matter should be made quite clear, as there are certain powers in the way of granting licenses for warehouses which can undoubtedly much more conveniently be exercised by the Chairman in his executive capacity and which need not be transferred to the Committee, such, for instance, as the large numbers of licenses which would be granted for warehouses for hay, straw, wood and the like. The granting or withholding of such licenses raise no question of any importance or consideration; they are purely executive matters, and it is obviously undesirable that the power of granting or withholding such licenses should be delegated to a Committee. They are powers which the Chairman now deals with in practice, and it is convenient that this practice should continue. The proposed amendment makes it quite clear that the powers and discretion, which may be delegated to a Committee appointed under this section, may be limited to the exercise of the particular powers relating to important warehouses, such as jute warehouses and the like, or they may, if the Commissioners so decide, be general in their character. To avoid any misunderstanding, it is desirable that the clause should distinctly lay down that all or any of the powers of the Chairman may be delegated. I, therefore, move that in section 9, before the words 'the powers', the words 'all or any of' be inserted."

[*Sir Charles Paul; Mr. Allen; the President.*]

The Hon'ble SIR CHARLES PAUL said:—"I should have thought this amendment to be unnecessary. According to the interpretation of statutes, words in the plural number include the singular. I have no objection to the passing of the amendment, if the Hon'ble Member in charge of the Bill thinks it necessary."

The Hon'ble MR. ALLEN said :—" It appears to me that the definite article used in section 9 of the Bill before the words 'powers and discretion vested in the Chairman of the Commissioners' refers to the powers conferred by the sections preceding and are limited to those powers. A subsequent section (12) imposes on the Chairman of the Commissioners other duties, and I do not understand whether the hon'ble member intends that the Committee shall exercise those powers under section 12 or shall be capable of exercising them, as well as the mere power and discretion vested for granting or withholding licenses. If the definite article is cut out of section 9 and the words 'all or any of' are introduced, clearly they will refer to all the powers given to the Chairman of the Commissioners throughout the whole Act, and possibly the adoption of this amendment may go further than the hon'ble member intends. I understand he has no intention to extend the delegation of authority to the Committee beyond the powers and discretion which refer to the granting of licenses. There might be some inconvenience in allowing the Committee to take action under section 12."

The Hon'ble THE PRESIDENT said :—"I think the remark made by the learned Advocate-General that the words proposed to be inserted in section 9, though possibly unnecessary, can do no harm, would justify us in including those words, because if they can do no harm they may just as well be put in. There was a case quite recently—a very important case—in which the absence of those or similar words had the effect of completely vitiating the intention of the Legislature in an Act which was passed, and tied down the hands of the executive in a way which was not intended. It certainly appears to me that the words 'the powers under this Act' might include all the powers conferred under any part of the Act, and would not confine the delegation to the powers referred to in the section previous to section 9. And though the Legal Remembrancer objects that it might cause inconvenience if all the powers of the Chairman were to be exercised by the Committee, I may point out that we

[*The President; Mr. Cotton; Mr. Risley.*]

are merely putting the power of delegation in the hands of the Chairman, and we may rely on his exercising it in a way which will be judicious and convenient. I, therefore, think we can hardly do wrong in acceding to the amendment which has been proposed."

The Motion was put and agreed to.

The Hon'ble Mr. Cotton also moved that the Bill, as settled in Council, be passed.

He said:—"This Bill, after having been the subject of very considerable discussion both in this Council and outside of it, and after having been subjected to lively opposition from extreme points of view, has at length passed between Scylla and Charybdis and arrived in port. It is only necessary for me, I think, to make one remark on this occasion, and that is to express the obligations of the Council to the Hon'ble Mr. Woodroffe, who has vacated his seat since the Advocate-General has returned from leave, for the most valuable services which he has rendered both in the Select Committee and in this Council in preparing the clauses of this Bill. The lion's share of the work undoubtedly fell to him, and I am sure I am no more than expressing the general opinion of the Council when I say that we are much indebted to him for the trouble he took over this matter."

The Motion was put and also agreed to.

FINANCIAL STATEMENT FOR 1893-94.

The Hon'ble Mr. Risley said:—"In laying before the Council the first Provincial Financial Review, I propose, with the permission of the President, to explain as briefly as possible how the system of Provincial Finance came to be introduced, and the main differences which distinguish it from the centralised financial system which it displaced. An attempt will then be made to compare Provincial Finance as understood in India with the cognate systems of Federal Finance as practised in the German Empire and the American Commonwealth. Finally, I shall explain the most prominent and characteristic features of the Budget of the year 1893-94. In order to save the time of the Council, which has other business to transact, the full account of the working

and results of the Provincial system has been included in the second part of this Review, which I do not propose to read to you now, though it will be published in the Gazette for the information of the public.

"A high authority has stated that it was not until after the Mutiny in 1857 that anything deserving the name of systematic finance was introduced into India. The era of administrative development and opening up of the country which then set in gave rise to heavy expenditure in all directions, and a system of strict financial control became indispensable. In the first instance, this control was necessarily vested in the Government of India, and was, as Sir John Strachey points out, of a severely repressive character. From the time of the Mutiny to the year 1871-72, when the system of Provincial Finance was brought into working, the Local Governments possessed no powers of financial control, and had no financial responsibility. The Supreme Government administered the minutest details of the public expenditure. Without its authority no official, however small his salary, could be employed at the cost of public funds, and even district roads and buildings and local works of improvement were hampered by the same onerous conditions.

"The evils of applying this highly centralised system to an area so heterogeneous in respect of its physical conditions and the character of its inhabitants as the Continent of India, became more and more apparent as time went on. As long ago as 1861-62, Mr. Laing laid stress in his Financial Statement on the defects of the then existing system:—

'If this great empire is ever to have the roads, the schools, the local police, and other instruments of civilisation which a flourishing country ought to possess, it is simply impossible that the Imperial Government can find either the money or the management. The mere repair of the roads, where anything like a sufficiency of good roads has been made, is a matter altogether beyond the reach of any central bureau. It is of the first importance to break through the habit of keeping everything in dependence on Calcutta, and to teach people not to look to the Government for things which they can do far better for themselves. . . .

'It is most desirable to break through the system of barren uniformity and pedantic centralisation, which has tended in times past to reduce all India to dependence on the bureaus of Calcutta, and to give to Local Governments the power and the responsibility of managing their own local affairs. The great branches of the expenditure, such as the army and national debt, are imperial; and while this is the case, the great branches of revenue must remain imperial also. But there is a wide field, both of revenue and expenditure, which is properly local, which in England is met by local rates, and which, in fact, must be met locally, or not at all.'

"At about the same time the late Sir Henry Maine wrote with reference to the same subject:—'I do not think that anybody can have observed the recent workings of our system of financial control without coming to the conclusion that, if it be not on the point of an inevitable collapse, it is at all events in great danger of going to pieces unless the strain be lightened somewhere.'

"Nor were the evils complained of by any means confined to the purely financial branches of the administration. It was bad enough of course that insufficient funds were available for local purposes, and that the utmost uncertainty prevailed as to the amounts likely to be sanctioned for Provincial expenditure. But the worst consequences were those which took effect on the administration itself, and on the relations between the Provincial and Supreme Governments. The constant scramble for the largest share of the public revenues—a scramble in which the least scrupulous were apt to come off best—brought with it serious differences of opinion as to petty details of expenditure and led to constant interference on the part of the Supreme Government in matters of which it was necessarily very ill informed. This was resented by the Local Governments who were in touch with the facts and knew their own wants, and in this way a state of tension and conflict was brought about which added greatly to the difficulties of Indian administration.

"In the Resolution of the 14th December, 1870, the Supreme Government reviewed the entire question. They observed that, under the existing system, the division of responsibility was ill-defined, and that this led to conflict of opinion injurious to the public service. In order to avoid these conflicts, the obligation to find the funds necessary for administrative improvements ought to rest upon the authority whose immediate duty it is to devise such measures. They went on to say that the Supreme Government was not in a position to understand fully local requirements, nor did it possess the knowledge necessary for the successful development of local resources. Each province had special wants of its own, and might have means for supplying them which could not be properly diverted to Imperial purposes. A tax applicable to the circumstances of one part of the country might be distasteful or unsuitable elsewhere, and everywhere rates might be proper for provincial or local purposes, which could not be taken for the Imperial revenue.

"In order to give effect to these principles, the Government of India accordingly made over to the Bengal Government for the year 1871-72 the

financial control of the following services:—Jails, Registration, Police, Education, Medical Services (except Medical establishments), Printing, Roads and Miscellaneous Public Improvements, Civil Buildings, a certain proportion of Public Works establishments, and a certain proportion of tools and plant. The allotment given to meet these services amounted to Rs. 1,16,85,920 which was arrived at by adding up the actual charges of the year 1870-71, and taking this as the Provincial assignment, less a deduction of a rateable proportion of Rs. 3,50,000 which was resumed by the Imperial Government. By a subsequent Resolution of the 20th March, 1871, a special allotment of Rs. 5,32,870 was made in order to enable the scheme to be inaugurated successfully. This sum was treated as the opening balance of the year 1871-72.

"The Government of India undertook to maintain for the future the assignments for Provincial services at the amounts thus fixed, unless some fiscal misfortune, such as a heavy loss in the opium revenue or some national disaster, such as war or severe famine, should occur; and pledged itself in any case not to reduce them without previous consultation with the Governments concerned. It was left to the discretion of the Governments to distribute the total grant among the several departments for which they had become responsible, and it was laid down that any portion of the assignment made to any province that might be unspent at the end of the year would not lapse to the Imperial revenue, but would remain at the disposal of the Local Government. It was further provided that each Local Government should publish its own yearly estimates and accounts in the local gazette, together with a financial exposition (which should, where possible, be made before the local Legislative Council) analogous to that annually made in the Legislative Council of the Governor General.

"The financial control thus entrusted to the Local Government was to be exercised subject to the conditions that, without the previous sanction of the Government of India, no appointment on more than Rs. 250 a month should be created; that no class or grade of officers should be created or abolished, and that no addition should be made to the pay or allowances of any individual or class of officers that would lead to increase in the emoluments of any public servants doing duty in the same province, whose pay and allowances are charged to Imperial revenues. No public money might be invested, and no services rendered to other departments by the transferred departments were to be diminished; nor might the latter claim increased services from other

departments. The rules of the Supreme Government as to leave of absentee and absentee deputation and superannuation allowances were to be observed, and returns, accounts and estimates were to be submitted to the Supreme Government in such form and at such times as might be prescribed.

"In addition to these conditions, which were based in the main on financial considerations, the Local Government was reminded that increased powers of financial control would be accompanied by a corresponding increase of administrative responsibility, and that in respect of general principles it must follow the main lines of policy laid down by the Imperial Government. It was added that the procedure of the departments of Registration, Jails and Police was to a large extent governed by law, and that, although no law existed on the subject of education, the policy of the Government had been declared and prescribed in despatches from the Secretary of State; the authority of which and of the rules sanctioned by the Government of India regarding grants-in-aid and other matters of general principle, was not affected by the policy of decentralisation.

"In introducing this far-reaching administrative reform, the Government of India expressed the belief that it would produce greater care and economy; that it would import an element of certainty into the fiscal system which had before been absent, and that it would lead to more harmony in action and feeling between the Supreme and the Provincial Governments than had formerly prevailed. Beyond all this, there was a greater and wider object in view. It was felt that local interest, supervision and care were necessary to success in the management of funds devoted to education, sanitation, medical, charity and local public works. And it was hoped that the operation of the new scheme would afford opportunities for the development of self-government, for strengthening municipal institutions, and for the association of Natives and Europeans to a greater extent than before in the administration of affairs.

"On looking at the system thus introduced it is impossible not to be struck by its resemblance to the systems of federal finance which prevail in the German Empire and in the American Commonwealth. In these countries, the functions of the Imperial and the Local Governments are divided in much the same way as they are in India. Thus in Germany, the revenues derived from Customs, the indirect taxes upon salt, tobacco, brandy and sugar, the revenues from stamps, bills of exchange, securities and playing cards are set

apart for the Imperial Budget, the expenditure side of which includes the cost of the Federal Government—the Army, Navy, Post Office, Telegraph, State Railway, Supreme Court, Imperial Bank, Pension and Invalid Funds, Currency and Debt. Any deficit which remains, after the sources of revenue reserved for the Empire have been exhausted, is met by contributions raised from the individual States according to their population. The actual demands under this arrangement varied in the Budget of 1892-93 from £9,405,191 levied on Prussia to £12,392 paid by the little State of Schaumburg-Lippe. In America, the Federal Government raises its revenue by indirect taxation and chiefly by duties of customs and excise. Direct taxes were levied during the war, and stamp duties were also resorted to; but no stamp revenue is now collected by the National Government. The individual States on the other hand derive almost the whole of their revenue from direct taxation, as the levying of import or export duties by a State is forbidden by the Federal Constitution.

"Close as these resemblances are, there is no reason to suppose that the Indian system was modelled or has been materially influenced by these Federal systems of finance. Provincial finance is a plant of natural growth, developed under the pressure of administrative necessity, and owing nothing to the example of other countries. It was in fact devised, if not actually introduced, before the German system, which it most closely resembles, had come into existence; and it was developed on lines which, though leading to substantially the same result, started from diametrically opposite directions. Both in Germany and America, the individual States came first, and they were the sole repositories of sovereign power. The Federal system was created by the States stripping themselves of certain attributes of sovereignty and making them over to the Central Government. In India, this order of things was reversed. All power resided in the group of departments forming the Government of India, and for a long time this central bureaucracy absorbed and exercised all the functions of Government and itself transacted all financial business from the negotiation of a State loan down to sanctioning of a chaukidar's pay. At length the burden became too heavy and the complication too great, and the Central Government transferred some of its powers to the Local Governments to be exercised subject to the conditions stated above. Thus they arrived by an independent process of development at substantially the same results as the German Imperial Government. The main differences are, first, that in Germany, the division of taxation between the Empire and the individual States is effected by reserving all indirect taxation

for the former, and leaving to the States direct taxes which the Empire does not levy; and secondly, that the contributions of the States to the Empire are regulated with reference to the population concerned. In India, on the other hand, no attempt is made to set apart certain kinds of taxation as exclusively Imperial, and the division is effected by assigning arbitrary fractional shares to the Provincial Governments. Similarly, the amount of the contributions levied from time to time by the Imperial Government is not regulated by any intelligible principle, but varies like the medieval benevolences according to the necessities of the moment. The Indian system, though less precise and logical than the German, is probably a good deal more elastic, and admits of being modified at intervals of five years, or even oftener, in accordance with the requirements of Imperial Finance.

"I now turn to the current contract, which began to take effect on the 1st April, 1892. After a lengthy correspondence with the Government of India, the terms and conditions of this contract were finally settled on the 17th March, 1892. It was then arranged that the revenue and expenditure shown in the schedule attached to the Government of India's letter of that date should be Provincial in certain specified proportions, and that, from the revenues thus assigned, a deduction of Rs. 14,39,000 should be made through the Land Revenue head. The Bengal Government has no means of knowing on what basis, or by what method of calculation, the sum of Rs. 14,39,000 was arrived at On the receipt side of the account, the Provincial Government gets the whole of the following items:—Twelve per cent. on the Land Revenue collected from Government estates; rents of Salt Warehouses; fines and other minor receipts; Provincial rates; minor customs receipts; interest on local loans; receipts from Courts of Law, Jails, Police, Marine, Education, Medical, Botanic Gardens, Cinchona, Fairs and Emigration, and receipts in aid of superannuation; also Stationery and Printing, except the value of supplies to Railways and local bodies, and all receipts from Irrigation, Navigation and Civil Works. It receives one-half of Assessed Taxes, Forest receipts and Registration receipts, and of the traffic earnings on the Eastern Bengal Railway System; one-fourth of Excise and of minor Land Revenue heads, and three-fourths of the important head of Stamps. The revenue from these sources for 1893-94, excluding the opening balance, is estimated at Rs. 4,22,30,000.

"On the expenditure side, the Government of Bengal is required to meet all charges under the head of Land Revenue, except Survey and Settlement; all

expenditure for Provincial rates, and the transferred heads of Customs and Salt and Interest; also charges arising under the heads Courts of Law, Jails, Police, Marine, Education, Medical, and, with certain exceptions, Political; the whole of Scientific and Minor Departments, except Census, Ancient Manuscripts and certain Veterinary charges; the whole of Stationery and Printing; working expenses of Irrigation and Navigation and Civil Works, with the exception of Imperial Buildings. It is also responsible for one-half of the expenditure under Assessed Taxes, Forest and Registration, and for half of the working expenses of the Eastern Bengal Railway System; for three-fourths of Stamp expenditure and a quarter of Excise.

"Concurrently with the settlement of this contract, the general rules regulating Provincial finance were republished with the modifications they had undergone up to date, and it was also laid down that, if any considerable charge of an exceptional nature, which ought ordinarily to be borne by one Province were paid in another Province, the question of a corresponding adjustment between the two would be specially dealt with. This latter provision was rendered necessary by the decision to stop inter-provincial adjustments. It was further arranged that, on the score of the technical character of the work and the necessary uniformity in the working of all State Railways, the Provincial Government should not exercise any administrative or financial powers in regard to the Eastern Bengal Railway, but in order to maintain the Local Government interests in the constructing feeder roads and in the general development of communition in the tract served by the Railway, half the net earnings should be Provincial; that the capital expenditure required to complete the Higili Canal should be advanced on certain terms from Imperial funds; that the expenditure on Survey and Settlement operations during the term of the contract, being in its nature liable to great variations and difficult to reduce to a uniform yearly average, should be met by Imperial revenues, and lastly, that if the recoveries on account of the Survey and Settlement operations in Bihar should fall short of the expenditure which is recoverable from the zamindars and raiyats, the difference should be charged to Provincial revenues.

"With reference to doubts which had arisen concerning the interpretation of former contracts, the Government of India took the opportunity of declaring the contract to be a consolidated one, and not a collection of separate contracts for each Provincial head. They also stated that the representations made by the Government of Bengal, regarding each separate head, had received

careful consideration, and that the adjusting figure of Rs. 14,39,000 had been fixed, so as to place the revenue and expenditure in equilibrium on the basis generally of the existing stage of growth. The Local Government, it was said, would be expected to maintain all the Provincial services in a state of administrative efficiency, providing any increased expenditure necessary for that purpose either by reductions of expenditure or from increased revenue. It was added that the Bengal Government would not be entitled to assistance from Imperial revenues to meet future increases of expenditure or decreases of revenue, of whatever nature, classified under Provincial heads.

"I pass on to notice in somewhat fuller detail those heads of the Budget for 1893-94 which seem to stand in need of comment or explanation.

RECEIPTS.

"*Land Revenue.*—The Government of India have accepted the estimate of total collections under this head, as passed by the Local Government for 1893-94, amounting to Rs. 3,84,33,000. The estimate provides Rs. 5,07,000 for '12 per cent. on collections from Government estates.' Including this amount, the Provincial share of land revenue comes to one-fourth of (Rs. 3,84,33,000—5,07,000) + 5,07,000=Rs. 99,88,000.

"The debit of Rs. 13,50,000 to Provincial shown under Land Revenue adjustment is made up as follows:—

	Rs.	Rs.
For fixed contribution to Imperial revenues ...	.....	14,39,000
For interest on the capital advanced from Imperial revenues for remodelling the Higili Tidal Canal ...	.....	21,000
Total deduction ...	... ..	14,60,000
Add—		
For capital outlay on Higili Tidal Canal ...	1,00,000	
For Imperial buildings transferred to District Boards	10,000	1,10,000
Net deduction ...	.....	13,50,000

"It may be here mentioned that for reasons of account, all transfers, as between Imperial and Provincial revenues, are effected through the head of Land Revenue under the sub-head of Adjustments.

[*Mr. Risley.*]

"*Stamps.*—The estimate of total revenue from stamps for 1893-94 amounts to Rs. 1,57,00,000. The growth of this most important and expansive branch of Provincial revenue during the past four years has been as follows:—

			Rs.	Increase. Rs.
1887-88	...	...	1,38,16,000	.....
1888-89	...	...	1,38,39,000	23,000
1889-90	...	...	1,42,38,000	3,99,000
1890-91	...	...	1,42,47,000	9,000
1891-92	...	...	1,51,00,000	8,53,000
	Total	...	.....	12,84,000

"The increase amounts to Rs. 12,84,000, or an average of more than three lakhs a year. The smallness of the increase in 1890-91 was due to the reduction in the rate of copying fees from 4 annas to 3 annas per folio, with effect from 1st April, 1890. The revised estimate for 1892-93 amounts to Rs. 1,55,50,000, and the estimate for 1893 94 has been placed at Rs. 1,57,00,000. As the stamp duty is fixed by substantive law at rates which cannot be altered, the revenue under this head cannot be materially affected by administrative measures. All that can be done is to watch the working of the law carefully, to look out for evasions, and to see that adequate penalties are levied for breaches of the law and rules.

"*Excise.*—The Accountant-General estimated the total revenue for the year 1893-94 at Rs. 1,12,00,000, against Rs. 1,10,64,413 estimated by the Board of Revenue. In Government order No. 654T.-F., dated the 24th October, 1892, sanction was given to the enhancement of duty on wholesale licenses for the vend of imported liquor in the town of Calcutta from the nominal sum of Rs. 50 a year to Rs. 50 a month, or Rs. 600 a year, from 1st April, 1893. Some changes have also been made in the duties on retail licenses. The effect of these orders will be to increase the revenue to a considerable extent. A substantial increase is also anticipated next year under the head 'Farm of drugs,' owing to the present rates of duty on all kinds of ganja being raised by one rupee per seer with effect from 1st April, 1893, under the orders of the Government of India in the Finance and Commerce Department, No. 784, dated the 23rd February, 1891. It was calculated that the total increase on

this and other accounts would not be less than three lakhs, and accordingly the Accountant-General's estimate was raised from Rs. 1,12,00,000 to Rs. 1,15,00,000, and this has been accepted by the Government of India.

"*Provincial Rates.*—The head *Provincial Rates* represents principally the proceeds of the Public Works Cess, but it includes also the recoveries from District Funds of the proportionate cost of collecting Road Cess and the Rates for the general management of Wards' and Attached Estates. The receipts have been as follows :—

	1887-88.	1888-89.	1889-90.	1890-91	1891-92.	Revised estimate, 1892-93.	Estimate, 1893-94.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
(*a*) Public works cess ...	38,19,860	37,97,870	39,11,693	38,93,461	40,79,753		41,50,000
(*b*) Proportionate cost of collecting road cess.	3,13,524	2,68,084	3,12,096	3,55,052	3,64,355		3,31,000
(*c*) General management of wards' and attached estates.	1,03,154	90,369	82,235	71,420	80,419		80,000
Total .	42,36,538	41,56,323	43,06,024	43,19,933	45,24,527	45,40,000	45,61,000

"The variations under (*a*) were due to progress in valuation and revaluation of districts. The gross rental assessed on the introduction of the road cess was Rs. 13,11,68,432, and on the same basis the statistics furnished by the Board of Revenue show that it amounted to Rs. 14,60,45,236 in 1890-91, and Rs. 14,78,83,221 in 1891-92 Large recoveries of the arrears of rate on wards' estates were effected from the Burdwan Raj in 1887-88, and this accounts for the larger receipts under (*c*) in the first year of the contract. The comparatively smaller receipts under (*c*) in 1890-91 and 1891-92 were due to the release from Government management of a large number of estates during the course of the former year.

"Head (*b*) is a new head of account which appeared in the Provincial Account in consequence of the introduction of the Local Self-Government Act. Prior to the extension of the Act, the charges for the collection of both the Road and Public Works Cesses were shown in the District Road accounts, the cost of collecting the Public Works Cess being paid to the District Road Committees through the adjusting head of Contribution, an assignment of Rs. 47,000 being made in the Provincial Contract under that head. The arrangement has now been reversed. The collection of the cess in the districts, where the Local Self-Government Act has been introduced, is shown as a Provincial charge, and is recovered from the District Funds before the net collections of the Road Cess are made over to the District Boards.

[*Mr. Risley.*]

"*Assessed Taxes.*—The Accountant-General placed the estimates of total receipts for 1893-94 at Rs. 43,50,000. Looking to the steady growth of revenue under this head, the estimate was raised by this Government to Rs. 44,00,000, but this has been reduced by the Government of India to Rs. 43,30,000, with reference to the actuals of 12 months ending January, 1893, which amounted to Rs. 43,28,000.

"*Forests.*—The following table shows the estimates of receipts and expenditure for the year 1893-94, compared with the actuals of 1891-92 and the sanctioned and revised estimates of 1892-93:—

BUDGET HEADS.	Actuals, 1891-92.	Sanctioned estimates, 1892-93.	Revised Estimates, 1892-93.	Budget estimates, 1893-94.
RECEIPTS.	Rs.	Rs.	Rs.	Rs.
I.—Timber and other produce removed from the forests by Government agency ..	41,503	59,400		25,100
II.—Timber and other produce removed from the forests by consumers or purchasers	6,95,002	7,21,000		7,07,250
III.—Confiscated, drift and waif wood . .	8,210	17,000		12,180
IV.—Revenue from forests not managed by Government .		.. ..		
V.—Miscellaneous	44,778	34,600		29,470
Total ..	7,89,553	8,32,000	7,50,000	7,74 000
EXPENDITURE.				
A.—Conservancy and Works.				
I.—Timber and other produce removed from the forests by Government agency	25,004	41,040		
II.—Timber and other produce removed from the forests by consumers or purchasers	49,156	48,744		
III.—Confiscated, drift and waif wood	4,112	5,000		
IV.—Revenue from forests not managed by Government	... ..			
V.—Rent of leased forests and payments to share-holders in forest managed by Government	.. .	.. ...		
VI.—Live-stock, stores, tools and plant .. .	35,945	26 600		
VII.—Communications and buildings	19,841	46,400		
VIII.—Demarcation, improvement and extension of forests ...	29,425	37,656		
IX.—Miscellaneous	5,645	5,560		
Total A—Conservancy and Works ..	1,69,198	2,11,000		
B.—Establishments.				
I.—Salaries	1,98,631	2,30,*40		
II.—Travelling allowances	30,886	33,360		
III.—Contingencies	9,804	6,400		
Total B—Establishments .	2,39,321	2,70,000		
GRAND TOTAL OF EXPENDITURE	4,08,519	4,81,000	4,45 000	4,81,000
Surplus ..	3,81,034	3,51,000	3,05,000	2,93,000

"The estimates provide for a surplus of Rs. 2,93,000 at the end of 1893-94 against Rs. 3,05,000, the latest estimate for 1892-93.

"*Registration.*—The Accountant-General placed the revised estimate for 1892-93 at the same figure as the original estimate for the year, which

was Rs. 13,60,000. This amount was also proposed as the estimate for 1893-94. The actuals for the twelve months ending January, 1893, were Rs. 14,08,000, and the revised estimate for 1892-93 has been placed at Rs. 14,10,000, and the estimate for next year at Rs. 14,20,000. Half the receipts only are Provincial.

"*Jails.*—The total receipts for 1893-94 were estimated by the Inspector-General at Rs. 9,72,000, while the Accountant-General placed them at Rs. 9,09,000, reducing the estimate under the head Jail Manufactures by Rs. 63,000. The Lieutenant-Governor considered that the probable receipts under this head had been under-estimated by the Accountant-General, and thought they might safely be placed at Rs. 9,50,000. The total estimate of receipts was accordingly placed at Rs. 9,59,000.

"*Police.*—The Accountant-General estimated the total receipts for 1893-94 at Rs. 2,46,000 against Rs. 4,60,000, the sanctioned estimate for 1892-93, and Rs. 4,48,634, the actuals of 1891-92. The decrease is due to the exclusion of receipts on account of village police in the Chota Nagpur Division, which have been transferred from Provincial to Local. The estimate has been further reduced by Rs. 27,000, on account of the transfer of fees for the inspection of steam-boilers from the Provincial account.

"*Marine.*—The Accountant-General estimated the total receipts for 1893-94 at Rs. 9,28,000 against Rs. 9,68,000, the sanctioned grant for 1892-93, and Rs. 9,65,408, the actuals of 1891-92. The actual receipts, during the twelve months ending January, 1893, were Rs. 9,04,000. The revised estimate for 1892-93 has accordingly been placed at Rs. 9,05,000, and the estimate for 1893-94 at Rs. 9,12,000.

"*Education.*—The total receipts of the Education Department for 1893-94 are estimated at Rs. 5,71,000 against Rs. 6,10,000, the sanctioned estimate for 1892-93. The actuals of 1891-92 amounted to Rs. 5,95,123, and those of the twelve months ending the 30th September, 1892, to Rs. 5,70,758.

"*Medical.*—The estimate of receipts for the year 1893-94 was placed by the Accountant-General at Rs. 1,49,000 against Rs. 1,50,000, the sanctioned estimate for 1892-93. The estimate has been raised by Rs. 2,000, as some receipts are anticipated in consequence of the circular what the Sanitary Board have issued to all municipalities laying down the rate of fees to be levied from them for the preparation of plans and estimates for drainage and water-works schemes.

[*Mr. Risley.*]

"*Scientific and other Minor Departments.*—The principal items of receipts under this head are from Cinchona manufacture and Emigration fees. The total receipts are estimated at Rs. 1,62,000.

"*Civil Works by Civil Officers.*—The Provincial receipts from ferries for the year 1893-94 are estimated at Rs. 2,27,500, and the receipts from cemeteries at Rs. 2,500 against Rs. 2,23,500 and 2,500, respectively, the amounts sanctioned for 1892-93.

EXPENDITURE.

"*Land Revenue.*—The Accountant-General's estimates for 1893-94 under all the Provincial heads and sub-heads of expenditure amount to Rs. 34,19,000, as follows:—

			Rs.
Charges of district administration ...	...	...	29,43,000
Management of Government estates	...	...	4,01,000
Land Records and Agriculture ...	...	...	75,000
Total Provincial		...	34,19,000

"The estimate was raised by this Government by Rs. 4,000 in order to provide for revision of office establishment in the Deputy Commissioner's office, Sonthal Parganas. The increased provision, however, does not appear in the estimate of the Government of India.

"*Salt.*—The Accountant-General estimated Rs. 31,000 for expenditure of the Salt Department during 1893-94, which is the ordinary normal expenditure of the Department. A provision of Rs. 10,000 has, however, been kept in reserve to meet any further improvements that may possibly be made in order to provide increased facilities for the trade at Sulkea, Chittagong or Narainganj, and the estimate has therefore been raised to Rs. 41,000. The revised estimate for 1892-93 amounts to Rs. 1,25,000, which includes a special provision of Rs. 75,000, the amount payable to Mr. Kilby as an honorarium for his patent salt weighing machine.

"*Stamps.*—The total expenditure for 1893-94 of the Stamp Department, is estimated at Rs. 6,14,000 against Rs. 5,68,000, the sanctioned grant for 1892-93, and Rs. 4,51,779, the actuals of 1891-92. The actuals of 1891-92 did not include the cost of plain paper for use with Court-fee Stamps, which, under the terms of the new Provincial Contract, is charged to this head with effect from 1892-93, instead of to 'Stationery and Printing.' The Provincial share amounts to Rs. 4,61,000.

[*Mr. Risley.*]

"*Excise.*—The chief variations in this budget are due to the reduction of the salary of Excise Commissioner from Rs. 2,900 to Rs. 1,800, as under the orders of the Secretary of State, the Excise Commissioner will now ordinarily be a Magistrate of the second grade. Larger provision has, however, been made for the construction and completion of distillery buildings, and the total grant now stands at Rs. 7,16,000, of which the Provincial share is only one quarter, or Rs. 1,79,000.

"*Assessed taxes.*—The total expenditure of the Income-Tax Department during 1892-93 was originally estimated at Rs. 1,90,000, and this amount was reproduced by the Accountant-General as the revised estimate for the year, while he placed the estimate for 1893-94 at Rs. 1,89,000. It has been taken by the Government at Rs. 1,93,000, of which the Provincial share is one-half. The Accountant-General's estimates for 1893-94 include a provision of Rs. 3,600 for the local allowance of Rs. 300 per month drawn by the Superintendent of Preventive Service for performing the duties of the Collector of Income-Tax, Calcutta. As Mr. Kilby, the permanent Superintendent, has retired from the service, and a whole-time Collector of Income-Tax on Rs. 700—1,000 per mensem has been appointed, a provision of Rs. 8,400 as salary, and Rs. 1,200 as house allowance, has accordingly been made under this head.

"*Judicial Courts.*—The following table compares the estimates of expenditure for 1893-94 with the sanctioned grants for 1892-93 and the actuals of 1891-92:—

	Actuals, 1891-92.	Sanctioned estimates, 1892-93.	Estimate, 1893-94.
	Rs.	Rs.	Rs
High Court	11,41,299	11,35,000	11,40,000
Law Officers	3,14,862	2,82,000	2,90,000
Coroner's Court	14,358	13,000	13,000
Presidency Magistrate ...	70,430	63,000	63,000
Civil and Sessions Courts ...	43,59,269	43,90,000	44,50,000
Courts of Small Causes ...	2,01,489	1,82,000	1,78,000
Criminal Courts	22,44,523	22,45,000	22,56,000
Pleadership Examination charges	7,822	8,000	8,000
Refunds	1,28,755	1,15,000	1,30,000
Total ...	84,82,807	84,33,000	85,28,000

[*Mr. Risley.*]

"The increased provision of nearly a lakh of rupees under Civil and Session Courts on the actuals of 1891-92 represents the financial effect of the increase which has been found necessary in the number of Subordinate Judges, and Munsifs and Judicial establishments generally. There has also been sanctioned an addition to the ministerial establishment of the Civil Courts in consequence of the recommendations made in the reports of Messrs. Toynbee and Stevens, who were appointed to enquire into the subject.

"*Jails.*—The grants for 1893-94 for the Jail Department are as follows:—

	Sanctioned grant. Rs.
Superintendence	52,836
Presidency Jail	98,826
Central Jails	4,93,894
District „	5,81,958
Lock-ups	1,20,457
Reformatary Schools	35,975
	13,83,946
Add for rounding	54
Total ...	13,84,000
Jail manufactures	7,95,000
GRAND TOTAL ...	21,79,000

"The total grant amounts to Rs. 21,79,000 against Rs. 20,22,000, the actuals of 1891-92, and Rs. 20,90,000, the revised estimate for 1892-93. The increase in expenditure, which is partly counterbalanced by an increase in receipts, is necessitated by the increase of jail population, and adequate provision has to be made for the high prices of food-grains for ration expected to prevail during the year.

"*Police.*—The total expenditure of the Police Department for 1893-94 was originally estimated at Rs. 56,80,000, from which were deducted Rs. 21,000, the charges connected with steam-boiler inspection, and Rs. 75,000 under the head of Temporary Transport for the South Lushai Hills. The Government of India have accepted the deduction only of the first item, so that the grant now stands

at Rs. 56,59,000. The estimate under Special Police, amounting to Rs. 4,98,000, includes a lump provision of Rs. 4,46,000 for expenditure during the ensuing year under the head South Lushai Hill Force. The estimate has been accepted provisionally, subject to any modifications which Government may hereafter find it necessary to make in view of the approaching transfer of the South Lushai territory to Assam.

"*Marine.*—The difference of Rs. 10,000 under this head between the estimate of the Government of India and that of the Local Government represents the provision made by this Government for compensation payable to Captain Petley, the Port Officer, on account of his enforced retirement, which is payable by the Provincial revenues, but which does not appear to have been included in the budget passed by the Government of India. A sum of a lakh and a half required to meet the balance of the cost of the new pilot vessel to replace the *Coleroon*, which is now being built at the Government Dockyard at Bombay, has been provided under the head of Purchase and Hire of Ships and Vessels.

"*Education.*—The estimate provides for a total expenditure of Rs. 25,73,000 against Rs. 25,30,000, the revised estimate for 1892 93. The increase is chiefly for grants-in-aid for primary education, and for additional staff sanctioned for the Sibpur Engineering College. This heavy expenditure includes the cost of Government Colleges, which accounts for Rs. 5,20,000, Government schools Rs. 5,45,000, and grants-in-aid Rs. 5,89,000. These are institutions for general education, but special or technical education is also fairly well supported—Government Professional Colleges costing Rs. 1,21,000, and Special Government schools Rs. 1,45,000.

"*Medical.*—The grant for the Medical Department for 1893-94 stands—

	Rs.
Medical Establishment	5,86,000
Hospitals and Dispensaries	3,83,000
Sanitation and Vaccination	1,92,000
Grants for medical purposes	3,500
Medical Schools and Colleges	2,68,000
Lunatic Asylum	1,10,000
Lock Hospitals	16,000
Chemical Examiner	26,000
Refunds	500
Total ...	15,85,000

[*Mr. Risley.*]

"The total grant samount to Rs. 15,85,000 against Rs. 15,67,000, the actuals of 1891-92—Rs, 15,80,000, the revised estimate for 1892-93 proposed by this Government, and Rs. 16,00,000, the revised estimate of the Government of India. The increase on the actuals of 1891-92 is due to the normal growth of the administrative charges.

"The estimate of the Local Government includes an additional provision of Rs. 4,000 for remuneration to Civil Surgeon's clerks for doing vaccination work. The provision does not appear in the estimate of the Government of India. This additional duty forms a portion of a large scheme of reorganization which has been recently carried out, and which is expected to bring about a great extension of vaccination, and materially to enhance its efficiency in rural areas.

"*Scientific and other Minor Departments.*—The following table shows the details of the grants under this head:—

	Rs.
Provincial Museums	16,140
Donation to Scientific Societies	14,000
Experimental cultivation	19,500
Cinchona Plantations	1,03,552
Public Exhibitions and Fairs	12,350
Imperial Institute	500
Veterinary charges	19,000
Botanic and other public gardens	1,10,009
Emigration	22,754
Census	1,700
Registration of Railway Traffic	2,320
Registration of River and Road-borne Traffic	18,108
Provincial statistics	2,500
Examinations	3,000
Refunds	713
Charges in connection with the Indian Factories Act ...	18,400
Total Provincial ...	3,64,546

"The estimate for 1893-94 is Rs. 3,64,000 against Rs 3,13,000, the actuals of 1891-92, and Rs. 3,25,000, the revised estimate for 1892-93. The increase is chiefly for the provision of two new items, veterinary charges (19,000) and charges of Indian Factories Act (18,400), which were not in existence in 1891-92.

[*Mr. Risley.*]

"*Stationery and Printing.*—The estimate under this head amounts to Rs. 13,05,000; but it is hoped there will be some reduction of expenditure under this head, in consequence of the recent orders issued to revise each form, whenever necessary, only once in a year, and not to introduce new forms, except under special orders, till the old stock is exhausted.

"*Civil Works by Civil officers.*—The difference of Rs. 32,000 under this head between the estimate of this Government and that of the Government of India is due to the provision struck out by the Local Government for the construction of bridges in the South Lushai Hills.

"The closing balance, as now estimated by the Government of India, is Rs. 20,72,000, *i.e.*, Rs. 72,000 in excess of the minimum balance, which the Provincial Government is required to maintain under the orders of the Government of India.

"The foregoing paragraphs explain, in as full detail as is appropriate to the occasion, the figures of the Provincial Budget estimate of 1893-94. For the results of the system of Provincial Finance from its first introduction in 1871-72 to the close of the financial year 1891-92, a period of twenty years marked by great financial vicissitudes, I must refer the Council to the second part of this Review, which, as I have already stated, will be published in next Gazette for the information of the public. It is sufficient to say here that the Bengal of the present day owes to Provincial Finance most of the facilities and conveniences which distinguish it from the Bengal of 20 years ago: its railways, its irrigation and navigation canals, many of its most important roads, and a host of administrative improvements which it would be tedious to enumerate, amongst them the Council Chamber in which we are now assembled. The period of 20 years which we have to look back upon was one, as I have already said, of many vicissitudes and public calamities. At its opening, the Province had hardly recovered from the shock of one famine and was soon to suffer from another. Cyclones, floods, wars and rumours of wars, a falling exchange, grave alternations of agricultural depression and prosperity, serious changes of policy affecting the revenues of the State, all these things form a series of events beyond the control of the Provincial Government, which are liable to recur at any moment, and which constantly threaten the security of the Provincial finances."

Statement showing the Bengal Provincial Services Estimate for 1893-94 *and the Revised Estimate for* 1892-93.

RECEIPTS.	Revised estimate for 1892-93 as reported to the Government of India, Finance and Commerce Department, in letter No. 1344F., dated 9th March, 1893.	Revised estimate for 1892-93 as passed by the Government of India.	Estimate for 1893-94 as submitted by the Government of Bengal to the Government of India.	Estimate for 1893-94 as passed by the Government of India.
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Opening balance	23,53	23,53	23,02	22,46
Principal heads of Revenue—				
I.—Land Revenue { Proper	1,00,05	1,00,05	99,88	99,88
I.—Land Revenue { Adjustments ...	—13,26	—13,26	—13,50	—13,50
III.—Salt	90	90	90	90
IV.—Stamps	1,16,25	1,16,63	1,17,75	1,17,75
V.—Excise	28,52	28,52	28,75	28,75
VI.—Provincial rates	45,40	45,40	45,61	45,61
VII.—Customs	50	50	56	56
VIII.—Assessed Taxes	21,75	21,55	22,00	21,65
IX.—Forests	4,00	3,75	3,87	3,87
X.—Registration	7,05	7,05	7,10	7,10
Total ...	3,11,16	3,11,09	3,12,92	3,12,57
XII.—Interest	1,32	1,32	1,82	1,82
Receipts by Civil Department—				
XVI.—Law and Justice { Courts of Law	8,70	8,70	8,76	8,76
XVI.—Law and Justice { Jails	9,20	9,20	9,59	9,59
XVII.—Police	2,26	2,26	2,19	2,19
XVIII.—Marine	9,05	9,05	9,12	9,12
XIX.—Education	5,70	5,70	5,71	5,71
XX.—Medical	1,50	1,50	1,51	1,51
XXI.—Scientific and other Minor Departments.	1,89	1,89	1,62	1,62
Total ...	38,30	38,30	38,50	38,50
Miscellaneous—				
XXII.—Receipts in aid of superannuation.	72	72	56	56
XXIII.—Stationery and Printing ...	1,15	1,15	1,07	1,07
XXV.—Miscellaneous	8,03	8,23	7,96	7,96
Total ...	9,90	10,10	9,59	9,59
Railways—				
Eastern Bengal State Railway system ...	33,00	32,12	33,50	32,00
Irrigation—				
XXIX.—Major works (direct receipts) ...	16,35	16,50	14,50	14,50
XXX.—Minor works and navigation—				
By Public Works Department...	7,85	7,85	8,15	8,15
„ Civil Department	1,18	1,18	1,17	1,17
Total ...	25,38	25,53	23,82	23,82
Buildings and Roads—				
XXXII.—Civil works—				
By Public Works Department...	2,10	2,10	1,70	1,70
„ Civil Department	2,26	2,26	2,30	2,30
Total ...	4,36	4,36	4,00	4,00
Contributions	.....	.....	.....	.....
Total ...	4,23,42	4,22,82	4,24,15	4,22,30
GRAND TOTAL ...	4,46,95	4,46,35	4,47,17	4,44,76

EXPENDITURE.	Revised estimate for 1892-93 as reported to the Government of India, Finance and Commerce Department, in letter No. 1344F., dated 9th March, 1893.	Revised estimate for 1892-93 as passed by the Government of India.	Estimate for 1893-94 as submitted by the Government of Bengal to the Government of India.	Estimate for 1893-94 as passed by the Government of India.
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Direct demand on the Revenues—				
1. Refunds and drawbacks	1,53	1,53	1,53	1,53
2. Assignments and compensations ...	1,80	1,80	1,61	1,61
3. Land Revenue	33,88	33,88	34,23	34,19
5. Salt	1,25	1,25	41	41
6. Stamps	4,37	4,37	4,61	4,61
7. Excise	1,67	1,67	1,79	1,79
8. Provincial Rates	4,40	4,40	3,86	3,86
9. Customs	5,30	5,30	5,52	5,52
10. Assessed Taxes	92	92	96	96
11. Forests	2,23	2,23	2,41	2,41
12. Registration	3,57	3,57	3,67	3,67
Total ...	60,92	60,92	60,60	60,56
13. Interest on ordinary debt	1,20	1,20	1,38	1,38
Post Office, Telegraph and Mint—				
16. Telegraphs	4	4	3	3
Salaries and expenses of Civil Department—				
18. General Administration	16,25	16,25	15,92	15,92
19. Law and Justice { Courts of Law ...	85,35	85,35	85,28	85,28
19. Law and Justice { Jails	20,90	20,90	21,79	21,79
20. Police	57,84	57,84	55,84	56,59
21. Marine	8,61	8,61	10,47	10,37
22. Education	25,30	25,30	25,73	25,73
24. Medical	15,80	16,00	15,89	15,85
25. Political	37	37	29	29
26. Scientific and other Minor Departments	3,25	3,25	3,64	3,64
Total ...	2,33,67	2,33,87	2,34,85	2,35,46
Miscellaneous—				
29. Superannuation, &c.	16,90	16,90	17,50	17,50
30. Stationery and Printing	12,48	13,08	13,05	13,05
32. Miscellaneous	1,98	1,98	2,29	2,29
Total ...	31,36	31,96	32,84	32,84
Famine Relief and Insurance—				
33. Famine relief	3	3	.....	.....
Railways (Revenue account—				
40. Subsidized Companies—Land, &c. ...	26	26	1	1
Total ...	26	26	1	1
Irrigation—				
42. Major Works—				
Working expenses	14,00	14,00	13,98	13,98
Interest on debt	24,26	24,26	24,49	24,48
43. Minor Works and Navigation—				
By Public Works Department ...	15,51	15,50	15,58	15,58
„ Civil Department...	4		4	4
Total ...	53,81	53,76	54,09	[illegible]
Buildings and Roads—				
45. Civil Works—				
By Public Works Department ...	28,44	29,35	27,43	[illegible]
„ Civil Department...	1,70		1,93	[illegible]
Total ...	30,14	29,35	29,36	[illegible]
Contributions	12,50	12,50	11,50	10,00
Total ...	4,23,93	4,23,89	4,24,66	4,24,04
Closing balance	[illegible]	22,46	22,51	20,72
GRAND T[illegible]		4,46 35	4,47,17	4,44,[illegible]
Provincial surp[illegible]	[illegible]	(—)93	(—)51	(—)1,[illegible]

[*Mr. Playfair.*]

The Hon'ble MR. PLAYFAIR said:—"The Bengal Provincial Services estimate has been in the hands of hon'ble members for several days, but being a mere statement of balances it is not self-explanatory, and I would venture to suggest that, in future years, it might suit the convenience of members were the Budget and the official statement by the Hon'ble Member in charge of the Budget, presented at one meeting of the Council to be brought forward for discussion at a subsequent meeting of the Council.

"Taking the estimates of receipts and expenditure for the coming year, it is in the first place to be observed that the Government of India has reduced the income estimated by the Local Government by the sum of Rs. 1,85,000, and has likewise reduced the estimated expenditure by Rs. 62,000, which alterations raise the estimated deficiency for the year from the sum of Rs. 51,000, estimated by the Local Government, to the sum of Rs. 1,74,000, estimated by the Government of India. And it naturally occurs to me to enquire whether the expenditure of the year could not be limited to the sum of Rs. 4,24,04,000, scheduled by the Supreme Government, and whether the income of Rs. 4,24,15,000, as estimated by the Local Government, could not be retained, in which case there would practically be equilibrium between income and expenditure? Under the heading of 'Railways', the Government of India has docked the income estimated by the Government of Bengal by 1½ lakhs of rupees, which in itself goes far to account for the estimated deficiency for the year 1893-94, and it will be interesting to know if there is any likelihood of this further receipt being obtained from this source?

"Turning to details of the estimate for the coming year 1893-94, the Hon'ble Member in charge of the Budget has explained the reduction effected under the heading 'Salt.' I should like to enquire whether the expenditure of Rs. 5,52,000 under 'Customs'—heading No. 9 of the statement—includes the cost of collecting the salt revenue, which income, I understand, is passed to the credit of the Imperial Government; and, if so, whether Bengal gets credit for any portion of this cost from neighbouring provinces to which a portion of the salt passes or from the Government of India on their behalf? Receipts under heading XII show that Rs. 1,82,000 is received on account of interest, which, if taken to result from money advanced at 5 per cent., represents a capital of Rs. 36,40,000, which is not a large sum for this vast province. It would be interesting to know whether any portion of this represents loans to public bodies in Calcutta, or whether the money is lent wholly to bodies in the

[*Mr. Playfair.*]

mufassal? The next heading to which I would direct attention is, number XVI, under which Courts of Law are estimated to produce an income of Rs. 8,76,000. It has been reported that the accounts of the Calcutta Small Cause Court for the past year show a surplus approaching Rs. 1,60,000, and I beg leave to enquire if this revenue is included in the sum of Rs. 8,76,000? Turning to the other side of the estimates, it will be seen that the expenditure under 'Courts of Law' is placed at Rs. 85,28,000, and it would be interesting to learn what portion of the revenue from stamps, estimated at Rs. 1,17,75,000, may be considered as a credit against this debit?

"I come now to the important heading entitled 'Eastern Bengal State Railway System,' showing an estimated receipt of Rs. 32,12,000 for the year 1892-93, and a receipt of Rs. 33,50,000, estimated by the Local Government, and, as I have already pointed out, amended by the Government of India to Rs. 32,00,000 for the coming year 1893-94. This is apparently a net receipt, for the expenditure column under the heading 'Railways' includes the nominal charge of only Rs. 1,000. In the first place, I would venture to enquire whether this profit is arrived at after paying any interest on capital, and whether it is the whole profit of the year? Secondly, whether the reduction of one and-a-half lakh by the Government of India on the estimated income of Rs. 33,50,000 made by the Local Government, represents a reduction in tariff rates, or does it imply an increase in expenditure? It is to be hoped that the Government of India may, in the near future, take such action as will solve the difficulties arising from the depreciated value of silver, and that attention will be devoted forthwith to the wants of the internal trade of the country, which is meanwhile suffering; and that the Local Government will, in future, desire to obtain an income from railway traffic carried in quantity at low rates rather than from a restricted traffic transported at high rates. It will be within the recollection of hon'ble members of this Council that the Government of India took over the Eastern Bengal Railway from a Company, and that Colonel Conway Gordon, who was appointed Manager, stated before a Select Committee of the House of Commons that one of the reasons for Government doing so was, to protect the public from the excessive tariffs charged by the Company; it will also be remembered that the rates were lowered to the great advantage of trade, and especially of the jute trade, during Colonel Conway Gordon's incumbency: that these were restored to the tariff of the old Company,

and that although the tariff has again been modified, the undertaking earns an income approaching 7 per cent. on a capital far in excess of that of the original capital of the Company. It has recently been stated in this Council that this is an expensive port, and I earnestly hope that the time will soon arrive when this Government will take into serious consideration the charge upon crops from the field to the 'tween decks of vessels lying in the port, and endeavour to lessen the present cost. And in this connection, I venture now to ask whether the Local Government is in favour of the extension of the Bengal Central Railway through Singhia to Madaripore, to tap the large jute-growing district and place Calcutta in direct communication with the Chandpore terminus of the Bengal-Assam Railway, and whether the Local Government will represent to the Government of India the necessity for the construction of this section, if it has not already done so?

"I observe that the expenditure under the heading 'Irrigation' is estimated to be Rs. 30,26,000 over receipts; that the charge for interest alone, amounting to Rs. 24,48,000, is greater than the whole income of the department placed at Rs. 23,82,000. It would be interesting to have an explanation of the real value of this expenditure.

"The last entry under the heading of 'Contributions', placed in the expenditure column by the Government of India at Rs. 10,00,000, being Rs. 1½ lakhs below the sum budgeted by the Local Government, is not self-explanatory, and I beg leave to enquire to whom are those contributions made, and is it at all possible that this expenditure may be further reduced?

"Under the heading of 'Excise', the Hon'ble Member in charge of the Budget refers to the enhanced fee for wholesale licenses, which, he states, has been raised from Rs. 50 to Rs. 600 a year. I shall be glad to know that the latter sum should be stated to be Rs. 300, as notified in the Gazette. He also observes that changes have been made in the duties on retail licenses, and I beg leave to enquire whether the Government will give further consideration to the letter addressed by the Secretary to the Calcutta Wine, Spirit and Beer Association to the Secretary, Board of Revenue, under date the 2nd of March, 1893, in which it is urged that a very great hardship will be inflicted upon retailers by the enhancement of the annual license fee from Rs. 600 to Rs. 1,000 per annum?"

[*Mr. Risley.*]

The Hon'ble MR. RISLEY said :—"I will now do my best to reply to the questions of the hon'ble member, so far as they arise out of the budget figures before us and involve points of finance only. I am, however, not prepared to deal with the larger questions of administration which the hon'ble member's remarks incidentally raise, and some of which concern the Imperial rather than the Provincial Government.

"*First*, I may say that there appears to be no *primâ facie* objection to the proposal that the financial review should be presented, in future years, in much the same form as it has assumed to-day, except, of course, that it will not in future be necessary to go into matters of history, and the review will therefore be much shorter. With that exception, the review will take much the same shape as it has taken to-day, and there should be no difficulty in presenting it with other explanatory papers in time to admit of the review being read one week and the discussion on it taking place in the following week. There can be no doubt that it would very materially facilitate discussion upon questions which may arise. In that case, however, I should wish to add that the task of replying impromptu to questions which may arise on the budget will not be an easy one. If the statement is circulated beforehand in the manner proposed, I think it will be a matter for consideration whether some notice, formal or informal, should not be given; otherwise, it seems to me that any hon'ble member with a turn for propounding financial conundrums will have it in his power to embarrass the Financial Secretary by asking questions to which he will be unable to reply. At the same time, it would, I think, be convenient to give more detailed figures showing the sub-heads subordinate to the major heads, without which the figures of the budget must always be difficult to follow.

"Turning now to the details of the budget, as far as I could follow the hon'ble member, I may explain under the head of 'Salt' that the allotment of Rs. 1,20,000 shown in 1892-93 includes the sum of Rs. 75,000 paid to Mr. Kilby as his honorarium for inventing a most useful salt-weighing machine, and also Rs. 20,000 for improvements in the Salt Golahs at Sulkea, including a railway siding, &c., and also certain pontoons and appliances to facilitate the landing of salt, as against Rs. 10,000 put down for the same purpose in the current year. Rs. 31,000 may be taken to represent the normal expenditure of the Salt Department. The income of Rs. 90,000 is mostly derived from

salt bonded in warehouses. The income from rents of warehouses tends to decline, owing to a great change which has taken place in the salt trade. Instead of coming in sailing ships and being kept a long time in bond, salt is now imported in steamers and is left only a short time in warehouses, and the Provincial revenues do not get so much in the way of rent as hitherto. No doubt it may be said that the customs revenue gains by this change; but while the Imperial revenue gains, the Provincial revenue loses to some extent.

"Then with regard to 'Customs'. The hon'ble member remarks upon the sum of Rs. 35,52,000, which includes the cost of collecting the tax on salt. As this duty belongs solely to the Imperial revenues, the Government of Bengal gets no credit from the Government of India, except so far as the customs establishment is included in the lump sum assigned by the Government of India for provincial purposes.

"Under the head of 'Interest', the sum of Rs. 1,84,000 is made up of the following items:—Interest on educational securities, Rs. 14,000; interest on arrears of public works cess, Rs. 45,000; miscellaneous interest, Rs. 2,000, and a large sum (Rs. 1,23,000) on loans under the Local Authorities Loan Act of 1879, which enables the Local Government to lend money to local bodies and loans to cultivators, &c., and to people who want it for purposes of irrigation and cultivation on the security of their crops. That makes up by far the larger portion of the sum. A very large portion of this is granted by the Government under the Act for dealing with the water-logged portions of the country round about Calcutta, and the peculiarity of this Statute is, that the interest is not payable in such cases until the project is complete. One large project of this kind is now being carried—the Rajapur drainage scheme—and the interest will not be collected till the scheme is complete. These loans do not include any sums lent to the Municipal Corporation of Calcutta, or the Calcutta Port Commissioners, which are included in the Imperial accounts.

"Law and Justice cost Rs. 8,76,000. I may explain that this head includes only the cash receipts of the Small Cause Courts, that is, to say, fees, forfeitures, &c. The Small Cause Court receipts on court-fee stamps appear under the head of 'Stamps'. It comes then to this: that we do not separate Small Cause Court receipts from other judicial receipts, and in order to make up any sort of profit and loss account, it would be necessary to have separate accounts made up. I am not in a position to say now whether we shall be able

to do that or not, but, at any rate, part of the receipts come under two or three or more heads of Law and Justice, and under various minor receipts under the head of Stamps; so that under these figures, as they stand, it is impossible to say precisely what the receipts from the Small Cause Court are.

"Under the head of 'Stamps', the total receipts are 157 lakhs, of which the Provincial Government gets three-fourths. Out of this, 113 lakhs represent the receipts from court-fee stamps and 44 lakhs from what are called 'general stamps', being the large sheets of paper with an engraved stamp at the top upon which legal documents are executed. In consideration of getting three-fourths of these receipts, the Provincial revenues are required to bear the whole cost of maintaining the judicial establishments which, as the statement shows, enormously exceed the receipts under the head of 'Courts of Law'.

"Under 'Marine', I have already mentioned that the estimate of Rs. 10,37,600 includes Rs. 1,50,000 for the cost of a new pilot-vessel to replace the *Coleroon*, and it also includes the cost of bringing the vessel round from Bombay, and so forth. Marine receipts vary, of course, with the tonnage of vessels visiting Calcutta.

"Under the head of 'Railway Receipts', the entry of 32 lakhs represents half the net receipts after paying the working expenses. All the interest charges are met by the Government of India and do not appear in the provincial accounts.

"Under the head of 'Irrigation', I should explain that the origin of these works really goes back to the time of the Orissa famine. That history is given at length in the second part of this review, and it will show why it is that the receipts do not cover the charges for interest. I may further explain that there are two kinds of irrigation works—major works for which a capital account is kept, and on the capital outlay for which interest is charged, and minor works for which no interest is charged. The receipts from the major works are called 'direct receipts', and they consist of navigation receipts, water-rates, rents, &c. The receipts from the minor works consist of rents from surplus lands.

"Under the head of 'Contributions', the account is somewhat puzzling. Our contribution to the necessities of the Imperial Government is shown under the head of 'Land Revenue Adjustments', amounting to Rs. 14,39,000, which is reduced by certain sets-off to Rs. 13,50,000, as shown there. But the contribution amounting to 10 lakhs on the expenditure side of the account, to which allusion has been made, represents for the most part grants to District Boards for the maintenance of schools, ferries, pounds, dispensaries, &c.,

made over to their charge. This is done under the Local Self-Government Act, III of 1885, which gives extensive powers for making over the administration of these matters to District Boards. The principle on which these arrangements are worked out, and out of which these charges for contribution arise, is this: certain revenues are made over to the District Boards with a stated income as compared to so much expenditure, and we get out a certain excess expenditure which was calculated in 1886, and then the Government gave them a sufficient grant to bring them into a state of equilibrium. We deal with them in the same way as the Government of India deals with us, and these 10 lakhs represent those grants. Within the last two years or so, these contributions have been increased. Not only have more roads been made over to them with corresponding grants, but also certain provincial buildings, and that has enabled the Government to effect certain economies in the way of dispensing with Public Works establishment. The deficit of Rs. 1,74,000, I may explain, will be met from the accumulated balance which stands to the credit of the Provincial Government.

"I think the explanations I have given have covered most of the points to which the hon'ble member drew attention. There is only one more point, as regards excise licenses, upon which I think I made a mistake in stating that it is proposed to raise it from Rs. 50 to Rs. 600. I should have said Rs. 300 a year. I may add that a grievance relating to the legal definition of 'a dozen,' brought to notice by Messrs. Cutler, Palmer & Co., has been referred to the Government of India, and legislation may have to be undertaken."

The Hon'ble THE PRESIDENT said:—"I think, short as the discussion has been, it has brought out two points pretty clearly. One of these points is, that we must make an endeavour, in future years, to present the Financial Statement at an earlier period and must put our accounts in a fuller form. The form in which the accounts have been put before the Council on this occasion gives only the receipts and expenditure under the major heads. I have no doubt that it will not be difficult to have the statement of accounts drawn up so as to show the receipts and expenditure under all the sub-heads of account, so that they shall contain a good deal of information, which will avoid the necessity of asking questions in Council and will also assist hon'ble members, while discussing them, in defining more clearly what the particular point is on which information is desired.

[*The President.*]

"There has been no desire on the part of the Government to press or to hurry on this discussion to the inconvenience of anybody. As you are aware, the Council was summoned for last Saturday and I put it off to to-day, in order that more time might be afforded for the circulation and perusal and study of the Financial Statement. There was a miscalculation as to the amount of time that would be required. We thought there would have been ample time, and it was not seen, this being the first occasion on which discussion has taken place, that although the figures were presented to hon'ble members a week ago the explanatory statement could hardly have been drawn up so soon. In future, I trust this difficulty will be removed.

"The second point is that to which the Hon'ble Mr. Risley drew attention, namely, the difficulty which the Financial Member of Council will always experience if he is expected to answer questions arising out of the multifarious and complicated detail of the provincial accounts, such as those which the Hon'ble Mr. Playfair has put. In the Rules which relate to the working of the new Council, it is expressly laid down that interpellations which require answers should be presented a certain number of days beforehand, so that the answer might be prepared with accuracy. No such provision has been made with regard to financial questions. I suggest that we should follow the same practice which obtains in what I may call in parliamentary language 'another place', that any hon'ble member who intends to ask questions or to discuss a particular point in connection with the budget, should send intimation beforehand to the Secretary of the Council or to the Member in charge of the Department concerned, so that he might be prepared to give the information which may be required; although, according to the Rules, no particular period of time is fixed for sending such intimation beforehand and for preparing the answers.

"I think the Hon'ble Mr. Risley has answered all the points of the Hon'ble Mr. Playfair's interpellations, except one, and that is, with regard to the extension of the Central Bengal Railway. This is a matter in which the Bengal Government has taken considerable interest, and the year before last I expressly arranged a part of my tour during the rains so as to visit those parts and get first-hand information, in order to ascertain how far the railway could compete with water-carriage. This has always been a point of difficulty with regard to the projects in the Eastern districts of Bengal. When the Bengal

Central Railway to Khulna was first projected, it was assumed that a very large traffic might be calculated upon if the Railway carried the surplus of production of the Jessore and Khulna districts. We all know that it did not gather up that traffic, or anything like it. Water navigation competed successfully with it, and for a long time the Bengal Central Railway produced hardly any net earnings at all. It had to go to the Government of India *in formâ pauperis* and get a guarantee given to it, and it is only within the last two or three years that it has began to earn that guarantee, or something more than it. Of course, the difficulty of the Government of India in considering any project of extension is this : they say, you ask us to sanction the extension of the Railway to Madaripore or any other part of the country, as the case may be, will you not be encountering the same competition and the same financial difficulty as in the case of the first opening to Khulna? The conclusions to which I came was this : that there will always remain competition with the water traffic, but the water route in that part of the country is so circuitous and so difficult that there is good reason to think that the Railway will be able to compete successfully with it. If it is open to Madaripore, it will attract a large quantity of traffic, especially jute traffic; while it will not, to any considerable extent, rob the parent line at Goalundo of the traffic which it already possesses. It is all very well to say that a new line will take up a certain traffic, but if we are already carrying off that traffic by another route we should lose in one hand what we gain by another; the projectors must show that there is new traffic to be got and must not deprive the old line of the traffic which it now possesses. It is, on these grounds, that the Bengal Government sent up its report to the Government of India with regard to the Madaripore extension in September or October, 1891. Since then we have had a little dropping correspondence from time to time, but we have been met with the usual difficulty that, however much the Government of India may accept our arguments and our calculations, yet funds are wanting before that extension can be carried out. They have so many urgent and important schemes before them, relating to the opening up of partial communications throughout the whole Empire of India, that they are not able to afford funds for this particular local extension. At present, then, it stands in this way : that on the whole it is favourably considered, but it is lying over for want of funds till other projects which are considered more urgent have been completed, and then it takes its place in the front rank.

[*The President.*]

"It now only remains for me to announce that the Council is adjourned *sine die*, and, in doing so, I will draw attention briefly to the fact that this is the last occasion on which the Bengal Council meet in the same condition in which it has met for the last twenty-six years or thereabouts. The next meeting will, I hope, be a meeting of the enlarged Council, which cannot naturally be called together under a space of about two months. I hope it may be found possible for that Council to meet in July and August and take in hand the Bengal Municipal Bill, which the Select Committee has been working at so diligently and so usefully during the past few months. We all have great hopes that increased efficiency and increased good to the country will arise from a larger representation of the interests which exist in this enormous Province. But I am sure I may honestly and sincerely say, that the Government cannot hope to have greater help and more loyal devotion to the public weal in that Council than they have received from the Council which I am now addressing for the last time."

The Council adjourned *sine die*.

C. H. REILY,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Calcutta;
The 10*th April*, 1893.

Reg. No. 69G—300—25.4.93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

THE Council met at the Council Chamber on Saturday the 22nd July, 1893.

Present:

The HON'BLE SIR ANTONY PATRICK MACDONNELL, K.C.S.I., Offg. Lieutenant-Governor of Bengal, *presiding.*

The HON'BLE SIR CHARLES PAUL, K.C.I.E., *Advocate-General.*

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE H. H. RISLEY, C.I.E.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE D. R. LYALL, C.S.I.

The HON'BLE J. A. BOURDILLON.

The HON'BLE MAULVI ABDUL JUBBAR KHAN BAHADUR.

The HON'BLE F. R. S. COLLIER.

The HON'BLE MAULVI SYED FAZL IMAM KHAN BAHADUR.

The HON'BLE MAHARAJA RAVANESHWAR PROSAD SINGH BAHADUR OF GIDHOUR.

The HON'BLE SURENDRANATH BANERJEE.

The HON'BLE L. GHOSE.

The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR.

The HON'BLE P. PLAYFAIR.

The HON'BLE J. G. WOMACK.

NEW MEMBERS.

The HON'BLE MESSRS. LYALL and BOURDILLON, the HON'BLE MAULVI ABDUL JUBBAR KHAN BAHADUR, the HON'BLE MR. COLLIER, the HON'BLE BABU SURENDRANATH BANERJEE, the HON'BLE MR. GHOSE, the HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR, and the HON'BLE MESSRS. PLAYFAIR and WOMACK took their seats in Council.

THE PRESIDENT'S ADDRESS.

THE HON'BLE THE PRESIDENT said:—" Gentlemen—Before we proceed to the business for which we are assembled, I wish to offer a few words of cordial welcome to the hon'ble members who appear in this chamber

[*The President.*]

for the first time, and to congratulate the Council on its enlarged functions and wider sphere of usefulness. It is now 300 years, all but seven, since the Charter of Queen Elizabeth conferred on the Company of Merchants trading to the East Indies the power 'to make, ordain and constitute such and so many reasonable laws' as their enterprise required; and since then our legislative power in India has undergone various vicissitudes. Remaining in practical abeyance in the 17th century, it was not till the latter half of the 18th century that it was brought into active operation. You are all familiar with the difficulties to which the subjection of the legislative power to the veto of the judicial authorities led in the time of Mr. Hastings, and with the struggles which in the end of the last century resulted in the abolition of the veto. You are acquainted with the circumstances under which, in 1813, the powers of the Legislative Councils of all three Presidencies were enlarged and brought more into touch with the Government in England; and you know that the complications produced by the exercise of these extended powers in the Madras and Bombay Councils led to their disfranchisement in 1834, and to the concentration of all legislative authority in the Council of the Governor General. And you view, with perhaps something of an antiquarian interest, the introduction in 1853 of the judicial element into the Council, in the persons of two Judges of the Calcutta Supreme Court and the first faint glimmering of representation in the official nominees of the Governments of Madras, Bombay, Bengal and Agra. These various stages led up to the Act of 1861, by which a long step was taken in the direction of that liberal policy of which the Act of 1892 is a fuller realisation.

"Until 1861, then, Indian Legislative Councils were practically the executive Government acting in a legislative capacity, and according to modern notions that is not often a suitable arrangement. But, judged by practical results, the system on the whole worked well, and our Statute Book, from Lord Cornwallis's days to the days of the Penal Code, is no unworthy monument of the sagacity and the practical statesmanship of our predecessors.

"Thirty years ago, gentlemen, the old order of things had already begun to change, giving way to the new; our educational policy, ever to be associated with the names of Lord Macaulay, Lord Hallifax, and Mr. John Stuart Mill, had begun to take effect, and the change was stimulated by the transfer of the Government from the East India Company to the Crown. An early and expected effect of the extension of English education was the growth of a greater independence of thought on the part of the leaders of native society

and a fuller and freer criticism of the proceedings of Government. The number of Indian gentlemen who became accessible to the influences which swayed public opinion in England, and of those who were indirectly open to the same influence, increased rapidly. The time had come for a closer association of native gentlemen of light and leading with the Government of the country; and the prompt recognition of this fact will ever be connected with the honoured name of Canning.

"The establishment of local Legislative Councils and the addition of the native element brought our legislative system abreast of the public opinion of the day, and the results which have been attained are the best justification of the policy which inspired the Indian Councils Act of 1861. In Bengal, that policy has been entirely successful. No enactment on the long list of Bengal Statutes can be pointed to which was not called for by public necessity, or is not instinct with the spirit of public duty. And if this be largely due to the broader sympathies and keener sense of responsibility, which are the product of modern times, it must be admitted that it is also due to the beneficial influences exercised by the native members of this Council on the legislation which has taken place.

"Gentlemen, to such an inheritance of honourable tradition you now succeed in peculiarly auspicious circumstances. The desire of the educated and forward sections of Indian society in these Provinces has been expressed in favour of more extended political privileges, and the Government has met that expression of opinion in the way most consonant with constitutional usage and most conducive to solid progress. The various influential public bodies to which the privilege of recommending Members of Council has been entrusted have received their mandate with gratification and have fulfilled it with propriety and self-respect. The very eagerness which other bodies of less, though still of considerable, influence have exhibited to share in the privilege is proof, if any were wanted, of the value they set upon it. All these considerations invest our meeting to-day with special interest. The occasion is a landmark which will be memorable in the constitutional history of the country. I am confident, gentlemen, that our deliberations will be always worthy of these high auspices, and that we shall ever approach the consideration of the questions with which we may have to deal in no spirit of factious criticism, but with the object of advancing the best interests of the people and maintaining the dignity of the Empire."

BENGAL PROVINCIAL SERVICE.

The HON'BLE BABU SURENDRANATH BANERJEE asked:—

What effect has been given to the notification issued in the *Calcutta Gazette* of the 5th April last, announcing that six posts of District and Sessions Judge, four posts of Collector and Magistrate of a district, one post of Junior Secretary to the Board of Revenue, and one post of Under-Secretary to Government and some other subordinate appointments have been thrown open to the Bengal Provincial Service; and how many members of the Provincial Service have been appointed District Judges and Magistrate-Collectors, and if any member of the Provincial Service has been appointed Junior Secretary to the Board of Revenue or Under-Secretary to Government?

The HON'BLE MR. COTTON replied:—

"The effect of the notification published in the *Calcutta Gazette* of the 5th April last is qualified by paragraph 6 of the Resolution of the Government of India, No. $\frac{9}{1342}$C.Rev., dated the 21st April, 1892, which was published in the *Gazette of India* of the 23rd April, 1892, which declares that until all the existing statutory civil servants are provided for either by promotion or by amalgamation with the new Provincial Service, and until the prior claim of officers of the Civil Service of India and Commissions has been satisfied, the twenty posts referred to in the question cannot be thrown into the general *cadre* of the Provincial Service. There are now ten statutory civilians, of whom one, Mr. Brojendra Kumar Seal, holds the substantive appointment of a District Judge of the 1st grade, four hold the substantive appointment of Joint-Magistrate of the first grade, and five hold the substantive appointment of Joint-Magistrate of the second grade. Of the first grade Joint-Magistrates, three, viz., Mr. Nunda Krishna Bose, Kumar Gopendra Krishna Deb, and Mr. Ambika Churun Sen, are at present officiating as Magistrates and Collectors of districts. None of the statutory civilians, except Mr. Seal, are yet of sufficient standing in the service to be substantively promoted to the grade of District Judge or Magistrate and Collector of a district, but all of them have officiated in such appointments. In addition to these ten officers, there are three ex-statutory civilians who have been transferred to the Bengal Provincial Service. One of these officers, Mr. Umesh Chunder Batabyal, is now officiating as Magistrate and Collector of a district; another, Rai Nundo Kissore Das Bahadur,

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is holding a special appointment as District Officer of Angul and the Khond Mahals. The third is still a probationer, as he has not yet passed the departmental examinations. There are thus thirteen officers belonging to the Statutory and Provincial Services who are now holding posts ordinarily held by members of the Civil Service of India, to which the question refers. No member of the Provincial Service has yet been appointed to be Junior Secretary to the Board of Revenue or Under-Secretary to Government."

NATIVE ASSISTANT SUPERINTENDENTS OF POLICE.

The HON'BLE BABU SURENDRANATH BANERJEE asked:—

What is the number of Native Inspectors, together with their names, who, since the date of the report of the Public Service Commission, have been appointed to the grade of Assistant Superintendent of Police?

The HON'BLE MR. COTTON replied:—

"The number is two, viz., Babu Ras Behary Biswas, appointed on the 19th January, 1891, and Maulvi Zinnet Hosain Khan appointed on the 23rd June, 1892."

THE BENGAL GOVERNMENT'S SUMMER HEAD-QUARTERS.

The HON'BLE MR. GHOSE, in the absence of the HON'BLE MR. BONNERJEE, asked:—

(*a*) For how many years has Darjeeling been the head-quarters of His Honour the Lieutenant-Governor of Bengal during the hot weather?

(*b*) What used to be His Honour's hot-weather head-quarters before Darjeeling became such quarters?

(*c*) Has any additional cost been incurred by reason of Darjeeling becoming such quarters? If so, what has been the additional cost per annum since Darjeeling became such quarters, and from what funds has such additional cost been defrayed?

[*Mr. Bourdillon; Mr. Ghose*]

The HON'BLE MR. BOURDILLON replied:—

"(*a*) For about 30 years.

"(*b*) Various places, including Calcutta, Darjeeling, Parasnath Hill and Bhagalpur, at the discretion of the Lieutenant-Governor for the time being.

"(*c*) Additional cost has been incurred, which is defrayed from the public revenues. I have this morning received an unofficial letter from the Accountant-General of Bengal, in which he states that it is not possible to furnish figures for the earlier years of the period to which the question refers, because formerly accounts of this expenditure were not separately kept. Since 1888-89, however, these charges have been separately recorded, and the figures from that year will be furnished to the hon'ble member."

THE LIEUTENANT-GOVERNOR'S TOURS.

The HON'BLE MR. GHOSE, in the absence of the HON'BLE MR. BONNERJEE, asked:—

(*a*) How many tours did the present permanent Lieutenant-Governor of Bengal undertake from the time he took charge of his office to the time he went away on leave in May last?

(*b*) From what funds were the expenses of such tours defrayed, and if they were defrayed from the public revenues, what were the amounts of the expenses of each such tour?

The HON'BLE MR. BOURDILLON replied:—

"(*a*) Fourteen tours.

"(*b*) The expenses of such tours are defrayed from a lump allowance for tours and miscellaneous expenditure, which is a charge upon the public revenues, and under Article 1275 of the Civil Service Regulations is controlled by the Lieutenant-Governor. Details of the expenditure for each tour cannot be furnished."

THE MYMENSINGH CASE.

The HON'BLE MR. GHOSE, in the absence of the HON'BLE MR. BONNERJEE, asked:—

[*Mr. Ghose; Mr. Cotton.*]

(*a*) Has the attention of His Honour the Officiating Lieutenant-Governor of Bengal been called to the case printed as an appendix to the pamphlet called "Official Prestige *versus* the Liberty of the Subject"?

(*b*) Did the proceedings as printed in the appendix take place?

(*c*) Did His Honour approve of the proceedings? If not, will he, if he has not already done so, signify his disapproval to the officers concerned?

The HON'BLE MR. COTTON replied:—

"(*a*) The attention of the Officiating Lieutenant-Governor has been drawn to the case referred to by the receipt of the pamphlet.

"(*b*) No official enquiry has been made to ascertain whether the proceedings as printed in the appendix took place.

"(*c*) The Officiating Lieutenant-Governor expresses no opinion on the report of the proceedings which purport to have taken place eighteen months ago, and in regard to which it was competent for any parties who may have considered themselves aggrieved to seek for their remedy in the proper quarter at the time."

BRITISH SUBJECTS MADE OVER ON WARRANTS TO THE FRENCH POLICE AUTHORITIES.

The HON'BLE MR. GHOSE, in the absence of the HON'BLE MR. BONNERJEE, asked:—

Is His Honour aware that several British subjects are now in prison awaiting trial at Chandernagore who were handed over to the French Police authorities by the British Police without such British subjects being brought before any British Magistrate and without any investigation before such British Magistrate? If not, will he enquire whether the fact mentioned in this question is true or not?

The HON'BLE MR. COTTON replied:—

"The Officiating Lieutenant-Governor believes that the facts stated in this question are correct; the arrests having been made on warrants duly transmitted for execution by the French Government."

[*Mr. Ghose; Mr. Bourdillon; Babu Surendranath Banerjee; Mr. Risley.*]

MUNICIPAL SANITATION PRIOR TO ACT XXVI OF 1850.

The HON'BLE MR. GHOSE, in the absence of the HON'BLE MR. BONNERJEE, asked:—

(*a*) Who were the Municipal and Sanitary authorities of the towns of Bengal, except Calcutta and Howrah, at the time Act XXVI of 1850 of the Legislative Council of India was passed?

(*b*) What steps, if any, did these authorities take for the proper drainage, water-supply or sanitation of the towns in their respective charge?

The HON'BLE MR. BOURDILLON replied:—

"(*a*) and (*b*).—It is understood that there were no municipal authorities in the towns of Bengal at the time Act XXVI of 1850 was passed. It is believed that the Magistrate and the Civil Surgeon attended to sanitation so far as was practicable."

INSPECTION OF TEA GARDENS.

The HON'BLE BABU SURENDRANATH BANERJEE asked:—

What steps, if any, have been taken by the Government to ensure the efficient inspection of tea-gardens in the Dooars and the proper protection of coolies employed therein, with a view of remedying the evils pointed out by the Hon'ble Judges of the High Court, and published in the newspapers in their appellate decision in the case of Empress *versus* George Murray?

The HON'BLE MR. RISLEY replied:—

"The Commissioner of the Rajshahi Division was officially requested on the 9th instant to submit a full report to the Lieutenant-Governor on the suggestion made in connection with the case referred to in the question by the Hon'ble Judges of the High Court as to the necessity of inspection of tea-gardens in the Dooars. It is to be remembered that the labourers employed in Dooar tea-gardens are free labourers not affected by any Labour Law."

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.

The HON'BLE MR. RISLEY said :—"MR. PRESIDENT—Before the motion which stands in my name is put to the Council, I propose with your permission to make a statement, as brief as may be, reviewing the various stages through which the Bill to amend the Bengal Municipal Act of 1884 has passed, and indicating the general line of policy which the Government propose to adopt in respect of some of its more important provisions. It will be remembered that the Bill was introduced into Council on the 16th July last year, and was at once referred to a Select Committee. While in the hands of the Committee, numerous alterations and additions were made in it, some of which involved important questions of principle. For this reason the Committee recommended, in their Preliminary Report of the 25th August, 1892, that the Bill as amended should be republished for general comment, and, together with the opinions received, be again referred to the public before being taken into consideration by the Council. On the 30th August the Bill and the Report of the Committee were accordingly circulated to District Officers, Municipal Commissioners and Public Associations, with a letter explaining more fully the points upon which their opinions were invited. In reply to this circular, a very large mass of literature has been received, which the Select Committee—now somewhat reduced in numbers—have endeavoured to deal with. A revised Bill has been prepared, but since then some important opinions have been received, and for this and other reasons the measure is hardly yet ready to be finally laid before Council. I am confident therefore that I express the views of my colleagues on the Committee when I say that we not only feel that the addition to our number of two elected representatives of Municipal interests will be a source of strength to the Committee, and will add authority to our conclusions, but that we fully realise the advantage we shall derive from discussing the Bill, section by section, with gentlemen who have actual and recent experience of municipal administration. It may further be expected that our deliberations will have the effect of reducing the number of points upon which discussion is likely to arise when the Bill is again laid before Council for the consideration of its clauses.

"Although many of the sections of the Bill have not yet assumed their final form, and the ultimate decision regarding them must depend greatly on the view taken of them by the Select Committee as now to be enlarged, there are

some provisions of such importance that it seems desirable to take the present opportunity of stating how it is proposed to deal with them.

"In the first place then, it seems proper that I should make mention of the fact that a recent decision of a Full Bench of the High Court has reversed the decision of the Hon'ble Judges in the case of Mohini Chandra Paul and another against the Municipality of Kushtia. In this case, as was explained in the Statement of Objects and Reasons annexed to the Bill as originally introduced, the High Court held that a notification by the Government of Bengal, dated the 18th March, extending Part VII, Chapter II, of the Bengal Municipal Act V of 1876 to the Municipality of Kushtia, was not a 'notification' within the meaning of section 2 of the Bengal Municipal Act III of 1884, but an 'order,' and that, as that section contains no provision saving all orders made under the former Act, none of the provisions of Part VI of the present Act, corresponding to Part VII, Chapter II of the old Act, were in force in Kushtia or in any other municipality to which they had not been extended by the present Act. The practical meaning of this was that a large number of municipalities found themselves stripped of their legal power to deal with a number of sanitary matters, to regulate buildings, obstructions and encroachments on roads, burial and burning grounds, offensive and dangerous trades, and the like. The difficulty thus created might have been met in two ways—by issuing fresh notifications under the present law or by amending the Act. It was thought better to adopt the latter alternative as being the simplest means of attaining the end in view, while the procedure for issuing fresh notifications is cumbrous and elaborate. At the same time it was decided, at the suggestion of the Government of India, to take the opportunity of making an exhaustive inquiry into the working of the Act with a view to the inclusion of all amendments which experience had shown to be desirable. When this decision was arrived at, the probability that a Full Bench of the High Court might reverse the judgment in the Kushtia case was taken into consideration, and it was held that that event, even if it occurred before the Bill was introduced into Council at all, would not be of itself a reason for abandoning the intention to amend the law. What was contemplated as possible two years ago has now actually happened. A Full Bench of the High Court has overruled the Kushtia case and has restored to the municipalities the legal powers of which they had been for a time denuded. Meanwhile, the Bill has

been gathering to itself, as it rolled onward, fresh provisions drawn from the experience of the many critics, official and non-official, who have handled the subject, and it now aims at embodying several important administrative reforms, and at clearing up several practical difficulties regarding which public opinion is sufficiently unanimous, to make it clear that the amendment of the law ought to be proceeded with.

"The sections dealing with the introduction of schemes of water-supply and drainage give effect to a Resolution which was carried, with one dissentient voice, by a representative Conference held at Belvedere about this time last year. The Resolution in question was to the effect that, in the opinion of the Conference, it was expedient that the Local Government should be empowered to require municipalities to undertake projects of drainage and water-supply, it being provided at the same time, on the suggestion of the HON'BLE BABU SURENDRANATH BANERJEE, that each such scheme, with the reasons for compulsory action, should be published in the *Calcutta Gazette*, and opportunity given to the municipalities to show cause against such compulsion. The Government approves of the principle of these sections and proposes to proceed with them subject to certain minor changes, which I shall lay before the Select Committee, having for their object to make more efficient provision for voluntary action on the part of Municipal Commissioners, and for assisting them to get adequate professional supervision for sanctioned projects—a point which recent experience has shown to be one of considerable importance.

"Another important question which has received careful consideration is that of the appointment of an assessor. While adhering to the principle embodied in sections 32—39 of the Bill, the essential provisions of which have been adapted from English Municipal law, the Government is prepared to admit that there may be room for modification of details, and that there is much to be said for the opinion that the sections as drafted go too far in that they render it compulsory for all municipalities, small and great, well managed and ill managed, to provide themselves with an assessor. If then it is desired to make this portion of the law more elastic and more readily adaptible to varying circumstances and requirements, the best plan would probably be to empower the Local Government to require any municipality to appoint an assessor, and to group municipalities for this purpose, and apportion the cost so as to provide for the case of a

number of small municipalities having one assessor between them, other minor points being left to be provided for by rule.

"What I have just said about the desirability of making the assessor sections more elastic appears to apply in some measure to the Act itself. It is, I believe, a recognised principle in modern legislation, whether English or Indian, that matters of detail, which are liable to vary from time to time, should be dealt with, as far as possible, by rules having the force of law, adequate provision being of course made for notifying such rules to the persons likely to be affected by them, and for giving them an opportunity to object. For convenience of reference the subjects reserved for rule-making are grouped together in a single section, which enumerates the matters regarding which rules can be made. In the Bengal Local Self-Government Act this system has been adopted and has been found to work well, and a definite proposal to introduce into the Municipal Act a rule-making section, based partly on that Act and partly on the more modern municipal legislation of other provinces, will be laid before the Select Committee for their consideration.

"The only other sections which I need mention at present are those dealing with the cleansing of private privies and cesspools (sections 49 and 70—73 of the Bill as provisionally amended by the Select Committee). It appears from the opinions which have been received, and more particularly from a valuable note, for which I may be permitted to express my obligations to the HON'BLE SYED FAZL IMAM, who, as Vice-Chairman of the Patna Municipality, has had special experience of this difficult subject, it appears, I say, from these opinions, that these sections, which proceed on a novel principle, will have the effect of materially reducing the municipal income under this head in a direction which was not contemplated. No doubt this portion of the law needs some reform, but the changes suggested in the draft Bill seem to go too far, and the better course would apparently be to adhere in the main to the existing law, merely taking the opportunity to clear up doubtful points as to the holdings liable to be taxed for the cleansing of privies and relieving the poorer classes, by providing that the fee for cleansing latrines shall in no case exceed the house-tax or personal tax actually paid. This, it is believed, will remove what is felt to be a very great grievance."

[*Mr. Risley.*]

The HON'BLE MR. RISLEY moved that the HON'BLE MESSRS. LYALL, COLLIER and GHOSE and the HON'BLE BABU SURENDRANATH BANERJEE be added to the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884.

The Motion was put and agreed to.

The Council adjourned *sine die.*

CALCUTTA;
The 28th July, 1893.

GORDON LEITH,
Offg. Assistant Secretary to the Govt. of Bengal,
Legislative Department.

Reg. No. 393G—300—5-8-93.

Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *and* 1892.

The Council met at the Council Chamber on Saturday, the 11th November, 1893.

Present:

The HON'BLE SIR ANTONY PATRICK MACDONNELL, K.C.S.I., Offg. Lieutenant-Governor of Bengal, *presiding.*

The HON'BLE T. T. ALLEN.

The HON'BLE H. J. S. COTTON, C.S.I.

The HON'BLE SIR JOHN LAMBERT, K.C.I.E.

The HON'BLE GONESH CHUNDER CHUNDER.

The HON'BLE D. R. LYALL, C.S.I.

The HON'BLE J. A. BOURDILLON.

The HON'BLE MAULVI ABDUL JUBBAR KHAN BAHADUR.

The HON'BLE F. R. S. COLLIER.

The HON'BLE MAULVI SYED FAZL IMAM KHAN BAHADUR.

The HON'BLE MAHARAJA RAVANESHWAR PROSAD SINGH BAHADUR OF GIDHOUR.

The HON'BLE SURENDRANATH BANERJEE.

The HON'BLE MAULVI SERAJUL ISLAM KHAN BAHADUR.

The HON'BLE P. PLAYFAIR.

The HON'BLE J. G. WOMACK.

THE LIEUTENANT-GOVERNOR'S TOUR CHARGES.

WITH reference to the question No. 1(*c*), asked on the 22nd July, 1893, by the HON'BLE W. C. BONNERJEE, regarding the cost per annum of making Darjeeling the summer head-quarters of the Bengal Government, the HON'BLE MR. BOURDILLON replied as follows :—

"I have now, in fulfilment of my promise of the 22nd July last, to reply that the annual cost since 1888-89 of making Darjeeling the summer head-quarters of the Bengal Government has been as follows :—

	Rs.
1888-89	30,158
1889-90	29,768
1890-91	29,780
1891-92	37,152
1892-93	37,792 "

RECOMMENDATIONS OF THE PUBLIC SERVICE COMMISSION.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government state what further effect has been given to the recommendations of the Public Service Commission beyond what was stated by the HON'BLE MR. COTTON in his reply, given at the meeting of the Council held on the 22nd July last, (1) in connection with the appointment of natives of India to offices hitherto reserved for the Covenanted Civil Service; (2) in connection with the wider employment of natives of India in the higher grades of the Police Service?

The HON'BLE MR. COTTON replied:—

"Both questions referred to are under the consideration of Government."

NUMBER OF CERTAIN CLASSES OF PUBLIC SERVANTS.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government lay on the table a statement containing the following heads of information in regard to the following classes of public servants employed in the various offices in connection with the branches of administration under its control:—(1) the number of Natives of India in each office, (2) the number of Eurasians in each office, (3) the number of Europeans in each office; drawing monthly salaries as given below:—(*a*) from rupees two hundred to rupees four hundred, (*b*) from rupees four hundred to rupees eight hundred, (*c*) from rupees eight hundred to rupees one thousand, (*d*) from rupees one thousand to rupees fifteen hundred, (*e*) from rupees fifteen hundred to rupees two thousand, (*g*) from rupees two thousand to rupees three thousand, (*h*) from rupees three thousand to rupees four thousand?

The HON'BLE MR. COTTON replied:—

"The names of gazetted officers, European, Eurasian and pure Natives of India employed under the Government of Bengal, with the salary each officer receives, are given in the Bengal Quarterly Civil List, which is available to the public. To furnish similar information in regard to non-gazetted officers as well as the information contained in the Civil List in the form stated in the

question would involve protracted enquiry and the entertainment of an extra establishment, the labour and cost of which the Government is not prepared to incur. But if the Hon'ble Member will restrict his enquiry to the Civil Service of India, the Provincial Civil Service and the Subordinate Civil Service in Bengal, so far as the number of Europeans, Eurasians and Natives of India is concerned, the information can be procured without much difficulty, and will be supplied."

The HON'BLE BABU SURENDRANATH BANERJEE said:—"I will be glad to have the information which is available."

THE HON'BLE THE PRESIDENT said:—"The information will be furnished."

HINDU RELIGIOUS ESTABLISHMENTS.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

To ask Government whether it is not the case that Act XX of 1863 has proved a failure, and that the Trustees of Hindus Religious Establishments have brought about the extinction of some, and are grossly mismanaging the proceeds of others, and whether there is not great waste of temple funds which are controlled by Mohants all over the Province?

The HON'BLE MR. COTTON replied:—

"There is no recent official information before the Lieutenant-Governor which would justify his expressing an opinion on either portion of this question."

INCREMENTS TO OFFICERS OF THE EDUCATIONAL SERVICE.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Whether a circular was issued a few months ago by the Director of Public Instruction to the officers of the Education Department, stopping the increments to which they were entitled; (*b*) whether on the protest of some officers of the superior graded service the above circular was withdrawn as regards all such officers of that service, allowing them the increments to which they were entitled; (*c*) whether the same circular was kept in force as regards

officers of the Subordinate Service, thus depriving them of the increments to which they were entitled, on the ground that a new scheme had been submitted to the Government of India, remodelling the Subordinate Graded Service of the Education Department; (*d*) whether the scheme regulating the salaries of both branches of the Bengal Educational Service, Superior and Subordinate, received the sanction of the Secretary of State, and whether such sanction has been withdrawn in respect of either of these branches of the service?

The HON'BLE MR. COTTON replied:—

"Some misapprehension appears to exist on the part of the Hon'ble Member in regard to this question, which makes it impossible for me to give categorical replies. The facts are, however, as follows:—The Government in sanctioning promotions from time to time in the Subordinate Educational Service has passed orders to the effect that 'the arrangements sanctioned were subject to the introduction of changes in the Subordinate Educational Service and conveyed no claims to progressive salaries.' These orders were by an oversight made applicable in certain cases to officers of the Superior Educational Service, but the mistake was at once corrected as soon as it was brought to notice unofficially by the Director of Public Instruction. On the 18th February last the following instructions were issued in reply to a letter from the Director, asking for an authoritative interpretation of the Government orders on the subject:—

'The orders were intended to convey that, when an officer is promoted to a higher grade in the Subordinate Educational Service, he enters it on the understanding that the system of increments is probably coming to an end, and that no increment will be given till this is decided: this ruling was necessary in order to prevent complications arising when the Educational Service is reorganised. It does not apply to the Superior Educational Service, as to which no such proposals for abolishing progressive salaries have been made by this Government.

'It should therefore be understood that promotions from a lower to a higher grade of the Subordinate Educational Service, either acting or permanent, will carry with them no title to progressive pay in the higher grade, but those who now hold acting appointments, and who have already drawn increments in

the grades in which they are so acting, will continue to draw any increments which they may be entitled in those grades.'

This answer is given in reply to sub-heads (*a*), (*b*) and (*c*) of the Hon'ble Member's question.

The reply to sub-head (*d*) is that the scheme for re-organising the Educational Service in Bengal, which affects both branches of the Department as at present constituted, has not yet been sanctioned by the Secretary of State."

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Whether the attention of the Government has been called to the note published by Mr. R. C. Dutt of the Bengal Civil Service on the separation of judicial and executive functions in the administration of criminal justice, and whether the Government proposes to take any, if so, what, action in connection with the matter?

The HON'BLE MR. COTTON replied:—

"The attention of Government has been drawn to Mr. R. C. Dutt's note by a communication on the subject from the Secretary to the Indian Association, but the Lieutenant-Governor is not in a position at present to make any statement regarding it."

RELIEF MEASURES IN EASTERN BENGAL.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Will the Government state what advances under the Agricultural Loans Act have been made in the following districts:—Barisal, Faridpur, Noakhali and Tippera, and what measures of relief have been adopted in the aforesaid districts (1) by the Government, (2) by the District Boards, and, lastly, by the local zamindars?

The HON'BLE MR. COTTON replied:—

"There is no distress in the Dacca or Chittagong Divisions which calls for special measures on the part of Government, nor is there such distress anywhere except in a concentrated area, and among a limited number of people in the

Bhil tracts of the Faridpur and Backergunge districts. The following sums for advances under the Agriculturists' Loans Act have been allotted to the districts enumerated in the Hon'ble Member's question—

	Rs.
Backergunge	12,500
Faridpur	23,000
Noakhali ... ... } Tippera ... ... }	11,100

Public works have been started under the District Boards in accordance with the procedure prescribed for such circumstances, but as yet few labourers have appeared on them. Relief centres have also been opened in the areas referred to. The sum of Rs. 10,000 has been placed at the disposal of the Commissioner of Dacca for expenditure on charitable relief to be granted in aid of district funds and public subscriptions should these prove insufficient. It has been reported to Government that some, not all, of the principal zamindars have been assisting their tenantry with liberality. The Officiating Lieutenant-Governor is satisfied that the measures taken amply meet the necessities of the case."

ANTI-KINE-KILLING AGITATION.

The HON'BLE BABU SURENDRANATH BANERJEE asked—

Whether the Government will organise conciliation committees on the model of those recently established in the North-Western Provinces in such districts where there have been cow-killing riots or where such disturbances are apprehended, and whether Government will state what measures it proposes to take for the securing of order and the establishment of harmony between the communities in conflict with each other in the aforesaid districts?

The HON'BLE MR. COTTON replied:—

"So long ago as the 8th September last a circular was issued to local officers, requesting them to consider whether in villages where the Gaurakhshini movement had attained any considerable devolopment, and animosity between Hindus and Muhammadans was likely to arise or had arisen, it would not be possible to constitute panchayats or conciliation committees

of the leading members of the Hindu and Muhammadan communities for the purpose of promoting mutual forbearance and peaceful relations. The Officiating Lieutenant-Governor regrets, however, to say that, owing to the embittered state of local feeling, his efforts in this direction have been attended with scant success. His Honour's views on the maintenance of order and the establishment of harmony between the communities in conflict with one another have already been published, and he has nothing to add to them at present. The district officers have been instructed to enforce the law with energy against the instigators and promoters of any disturbance."

BENGAL MUNICIPAL ACT, 1884, AMENDMENT BILL.

The HON'BLE MR. COTTON moved that the HON'BLE MR. BOURDILLON be appointed in the place of the HON'BLE MR. RISLEY to the Select Committee on the Bill to amend the Bengal Municipal Act, III of 1884.

The Motion was put and agreed to.

The Council adjourned *sine die.*

GORDON LEITH,
Assistant Secretary to the Govt. of Bengal,
Legislative Department.

CALCUTTA;
The 14*th November*, 1893.

Reg. No. 694G—300—21-11-93.